



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Department B - 510 19th Street
Bakersfield, California**

Hearing Date: Wednesday, February 5, 2025

At this time, when in-person hearings in Bakersfield will resume is to be determined. No persons are permitted to appear in court for the time being. All appearances of parties and attorneys shall be as instructed below.

Unless otherwise ordered, all matters before the Honorable René Lastreto II shall be simultaneously: (1) via **ZoomGov Video**, (2) via **ZoomGov Telephone**, and (3) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties or their attorneys who wish to appear at a hearing remotely must sign up by **4:00 p.m. one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/CourtAppearances>. Each party/attorney 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 and their attorneys who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest and/or their attorneys 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 who wish to attend by ZoomGov may only listen in to the hearing using the Zoom telephone number. Video participation or observing are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may attend in person unless otherwise ordered.

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

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

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

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

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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

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

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

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

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

Post-Publication Changes: The court endeavors to publish its rulings as soon as possible. However, calendar preparation is ongoing, and these rulings may be revised or updated at any time prior to 4:00 p.m. the day before the scheduled hearings. Please check at that time for any possible updates.

9:00 AM

1. [24-10403](#)-B-13 **IN RE: VICKI/ANGELA VALENTYN**
[WEE-1](#)

CONTINUED AMENDED MOTION TO CONFIRM PLAN
12-3-2024 [\[50\]](#)

ANGELA VALENTYN/MV
WILLIAM EDWARDS/ATTY. FOR DBT.

FINAL RULING: There will be no hearing in this matter.

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion was originally heard on January 8, 2025. Doc. #59.

Vicki and Angela Valentyn ("Debtors") moved for an order confirming the First Modified Chapter 13 Plan dated April 23, 2024. Docs. #24, #46. No plan has been confirmed so far. Chapter 13 trustee Lilian G. Tsang ("Trustee") timely objected to confirmation of the plan for the following reason(s):

1. The plan lists two creditors in Class 2 from whom no valuations, interest rates, or dividends are listed.
2. The Trustee requests clarification on whether Debtors intend to pay Wells Fargo Home Mortgage interest on prepetition arrears.
3. Section 3.05 of the plan says that Debtors have paid their attorney \$6,000.00 prepetition, with \$0.00 in attorneys' fees due to be paid through the plan. Debtor's counsel did not check any of the boxes under § 3.05. Therefore, pursuant to LBR 2016-1(c), Debtors' counsel can only be paid through a fee application.
4. Debtor has not filed a declaration in support of the Motion to Confirm.

Doc. #57.

The court continued this motion to February 5, 2025. Debtor was directed to file and serve a written response to Trustee's objection not later than two weeks before the hearing date or file a confirmable, modified plan in lieu of a response not later than one week before the hearing date, or the objection would be sustained, and the motion denied on the grounds stated in the objections without further hearing. Doc. #59.

Debtor neither filed a written response to the objections nor a modified plan. Therefore, Trustee's objection will be SUSTAINED on the grounds stated in the objection, and this motion will be DENIED WITHOUT PREJUDICE.

2. [24-12205](#)-B-13 **IN RE: CESAR RODRIGUEZ HERNANDEZ AND
[DHC-1](#) MILAGROS RODRIGUEZ**

CONTINUED MOTION TO CONFIRM PLAN
11-5-2024 [\[27\]](#)

MILAGROS RODRIGUEZ/MV
DAVID CHUNG/ATTY. FOR DBT.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to March 5, 2025, at 9:00 a.m.

ORDER: The court will issue an order.

This motion was originally heard on January 8, 2025. Doc. #40.

Cesar Rodriguez Hernandez and Milagros Migdalia Rodriguez ("Debtors") moved for an order confirming the First Modified Chapter 13 Plan dated October 22, 2024. Doc. #36. No plan has been confirmed so far. Chapter 13 trustee Lilian G. Tsang ("Trustee") timely objected to confirmation of the plan for the following reason(s):

1. Debtors have failed to provide Trustee with Business Documents including: 6 months of detailed profit and loss statements, Business Case Questionnaire, and copies of Debtor's liability riders and workers' compensation riders, if applicable, for Debtor's business.
2. Debtors have not provided Trustee with any proof of income since Mr. Hernandez has returned to work.
3. Debtors have filed an Amended Form 122C which moved, without explanation, business income from operating a business, profession, or farm from line #5 "gross receipts" to line #2 "gross wages." Trustee requests clarification of the reason for this change.
4. The plan proposes to pay Debtors' attorney a monthly dividend of \$200.00, in contravention of LBR 2016-1(c)(4)(B) which requires that payments for flat fees must be paid in equal installments over the life of the plan. The dividend should be reduced to \$125.00.

Doc. #36. The court continued this motion to February 5, 2025. Doc. #40. On January 22, 2025, Debtor filed a Response to Trustee's objections follows:

1. Debtors aver that they are not required to submit a Business Case Questionnaire because Mr. Hernandez is an independent contractor. An updated Schedule A/B was filed on January 23, 2025, and Debtors aver that an updated Business Case Questionnaire was uploaded to the Trustee's portal on that same day.
2. Debtors aver that proof of Ms. Rodriguez's current income has been uploaded to the Trustee's portal. Mr. Hernandez's employment was terminated in November of 2024, and his only source of income is his 1099 work in construction.

3. Debtors aver that the Amended Form 122C accurately reflects Debtors' income. Debtors' Reply includes what purports to be an explanation of how Debtors' income information was presented but resulted in confusion due to the nature of how the bankruptcy software operates.
4. Debtors consent to a reduction of the attorney fee dividend to \$125.00 per month.

Doc. #43. On January 31, 2025, the Trustee filed a Reply acknowledging Debtors' amended filings but stating that there remain errors in Debtors' Schedule I and Form 122C which must be corrected. Doc. #44. Trustee also states that the issue regarding the attorney fee dividend remains uncorrected but that this can be addressed in the confirmation order.

This objection will be **CONTINUED to March 5, 2025, at 9:00 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or the objection to confirmation is withdrawn, the Debtor shall file and serve a written response to the Trustee's Reply not later than **14 days before the hearing**. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Any reply shall be served no later than **7 days before the hearing**.

If the Debtor elects to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than **7 days before the hearing**. If the Debtor does not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

3. [24-12620](#)-B-13 **IN RE: LAKEYSHIA MCGILL**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY LILIAN TSANG
10-28-2024 [\[18\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Overruled, Sustained, or Continued.

ORDER: minutes of the hearing will be the court's findings and conclusions. Order preparation determined at the hearing.

This matter was originally set for hearing on January 8, 2025. Doc. #39.

Chapter 13 Trustee Lilian G. Tsang ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Lakeyshia McGill ("Debtor") on September 24, 2024, on the following basis:

1. The Trustee has not concluded the 341 meeting because Debtor failed to timely provide her 2023 tax returns and certain required business documents as outlined in the objection. The continued meeting was set for November 19, 2024, and continued to December 3, 2024.
2. Schedule I says that Debtor's trucking business would be closed immediately, but it remains open and is apparently producing income for Debtor. Debtor has also failed to provide pay advices.
3. Debtor's Form 122C-1 has been prepared incorrectly.
4. Debtor has failed to file, serve, and set a motion to value collateral as to the Class 2 AltaOne Federal Credit Union claim.
5. Amended Schedules A/B are required based on representations at the 341 meeting.
6. Form 2030 must be amended based on discrepancies between Form 2030 and the proposed attorney fee distribution through the plan.

Doc. #18. On November 27, 2024, the Trustee supplemented the Objection, stating that Item #4 (the motion to value collateral) had been resolved by stipulation between Debtor and the affected creditor, but the remaining issues were unresolved. Doc. #23. On December 3, 2024, the 341 meeting was again continued to December 17, 2024, and was concluded after that hearing. *Docket generally.*

On December 18, 2024, the Trustee again supplemented the Objection, stating as follows:

1. The 341 meeting has been concluded, resolving Objection #1.
2. Objection #2 remains unresolved, as Debtors' profit and loss statement does not match with Form 122C-1. Debtor's Schedule I has not been updated to reflect Debtor's new employer. Finally, if Hinds Hospice is Debtor's only employer, then the plan is not feasible.
3. Objections #3 is unresolved due to errors in Form 122C-1.
4. Objection #4, as noted, is resolved.
5. Objection #5 is unresolved. Schedule A/B must be amended to include a bank account that Debtor shares with her daughter.
6. Objection #6 remains unresolved as there remain inconsistencies between the Form 2030 Attorney Fee Disclosure Statement and the attorney's fees provided for in the plan. A new plan will be required before the higher attorney fee amount called for in the plan is permissible.

Doc. #31.

On December 22, 2024, Debtor filed a Response stating, inter alia, that on that same day, she filed Amended Schedules I and J, an Amended Form 122C-1, Amended Schedules A/B, and an Amended Form 2030, which Debtor asserts will resolve Trustee's Objections.

On December 27, 2024, Trustee filed a second Supplemental, stating as follows:

1. Objection #1 is resolved.
2. Objection #2 is resolved in part, but Debtor must file an Amended Schedule J to show the plan is feasible.
3. Debtor has filed an Amended Form 122C, but it is inconsistent with Debtor's Amended Schedule I, and more information and/or documentation is required.
4. Objection #4 is resolved.
5. Debtor's Amended Attorney Fee Disclosure is incomplete.

Doc. #37.

To give Debtor opportunity to respond to Trustee's second Supplemental, the court continued this matter to February 5, 2025. On January 19, 2025, Debtor filed a Reply to the second Supplemental averring:

All remaining issues have been addressed by filed amendments. Amended Schedules I and J now show an ability to pay \$781.11. Amended Form 122C now reflects on line 46 a reduction in line 16 taxes to \$437.75. Amended Attorney Fee Disclosure now has the correct language.

Doc. #46. The docket reflects that Debtor filed contemporaneously with the Reply: (1) an Amended Schedule I & J; (2) an Amended Disclosure of Attorney Compensation; and (3) an Amended Form 122C-1 and 122C-2. Docs. ##43-45.

On January 30, 2025, the Trustee filed a Sur-Reply to Debtor, stating:

All previously raised issues in the Trustee's original objection have now been addressed. However, based on the recently amended Form 122C-1, Debtor is now required to be in a 5-year plan. Debtor's original Form 122C-1 stated the commitment period was 3 years. (Dkt. 9.) Debtor filed an amended Form 122C-1 to correct the errors. (Dkt. 45.) Based on this amended Form 122C-1, the commitment period is now 5 years. As such, based on the monthly payment of \$781.11, general unsecured creditors shall now receive 91.88% through the plan. Furthermore, the attorney fee dividend will now be \$76.67 per month.

The Trustee is not opposed to addressing these changes in the order confirming.

Doc. #47.

If this Objection is not withdrawn, this matter will proceed as scheduled to determine whether Trustee's objections have been resolved. If so, the court will OVERRULE the Objection. If not, the court may SUSTAIN the Objection or CONTINUE this matter.

4. [24-13220](#)-B-13 **IN RE: RAMON/ANGELICA MEJIA**
[JCW-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY ALLY BANK
12-9-2024 [[17](#)]

ALLY BANK/MV
RABIN POURNAZARIAN/ATTY. FOR DBT.
JENNIFER WONG/ATTY. FOR MV.

FINAL RULING: There will be no hearing in this matter.

DISPOSITION: Overruled as moot.

No order is required.

On January 17, 2025, the court entered an order dismissing the
above-styled case. Doc. #36. Accordingly, this Objection is
OVERRULED as moot.

5. [24-13220](#)-B-13 **IN RE: RAMON/ANGELICA MEJIA**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
12-9-2024 [[14](#)]

LILIAN TSANG/MV
RABIN POURNAZARIAN/ATTY. FOR DBT.

FINAL RULING: There will be no hearing in this matter.

DISPOSITION: Overruled as moot.

No order is required.

On January 17, 2025, the court entered an order dismissing the
above-styled case. Doc. #36. Accordingly, this Objection is
OVERRULED as moot.

6. [24-13331](#)-B-13 **IN RE: LUCIA SILVA**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE
LILIAN G. TSANG
12-17-2024 [\[12\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to March 5, 2025, at 9:00 a.m.

ORDER: The court will issue an order.

This matter will be CONTINUED to March 5, 2025, at 9:00 a.m. to be heard in conjunction with the Trustee's *Motion to Dismiss*. Doc. #19.

7. [24-13433](#)-B-13 **IN RE: GILBERT COTA**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG
1-15-2025 [\[17\]](#)

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to March 5, 2025, at 9:00 a.m.

ORDER: The court will issue an order.

Chapter 13 trustee Lilian G. Tsang ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Gilbert Cota ("Debtor") on November 27, 2024, on the following basis:

1. Debtor failed to appear at the 341 hearing on January 14, 2025. The continued meeting is set for February 4, 2025. Additionally, Debtor has failed to provide: (a) proof of identification; (b) proof of Social Security Number; (c) pay advices for the 60 days prior to filing; and (d) 2023 tax returns.

Doc. #17.

This objection will be CONTINUED **to March 5, 2025, at 9:00 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or the objection to confirmation is withdrawn, the Debtor shall file and serve a written response to the Objection not later than **14 days before the hearing**. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Any reply shall be served no later than **7 days before the hearing**.

If the Debtor elects to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than **7 days before the hearing**. If the Debtor does not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

8. [24-13433](#)-B-13 **IN RE: GILBERT COTA**
[RAS-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK TRUST
NATIONAL ASSOCIATION
1-21-2025 [\[26\]](#)

U.S. BANK TRUST NATIONAL ASSOCIATION/MV
DAVID COATS/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to March 5, 2025, at 9:00 a.m.

ORDER: The court will issue an order.

U.S. Bank Trust National Association, Not In Its Individual Capacity But Solely As Collateral Trust Trustee Of FirstKey Master Funding 2021-A Collateral Trust, by and through its authorized loan servicing agent, Select Portfolio Servicing (collectively the "Creditor"), secured creditor of the above-entitled debtor, Gilbert Cota ("Debtor"), hereby objects to confirmation of the Chapter 13 Plan filed by the Debtor in the above-referenced matter on the following grounds:

1. Debtor's plan is unclear as to the treatment of Creditor's claim, as it is listed under two conflicting sections and the plan provisions are illegible.
2. The plan proposes to place Creditor's claim under Part 3 and Section 3.1, which is reserved for secured claims on which the last payment is due after the date on which the final payment under the Plan is due. Creditor objects to the placement of its secured claim under part 3, because Creditor's claim has already matured. Creditor's claim is a total debt claim and does not belong under Part 3 of the Plan. Debtor's Plan must provide for the full satisfaction of Creditor's claim if it is to be confirmable.

Doc. #26.

This objection will be **CONTINUED to March 5, 2025, at 9:00 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or the objection to confirmation is withdrawn, the Debtor shall file and serve a written response to the Objection not later than **14 days before the hearing**. The response shall specifically address each issue raised in the objection to confirmation, state whether the

issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Any reply shall be served no later than **7 days before the hearing**.

If the Debtor elects to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than **7 days before the hearing**. If the Debtor does not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

9. [24-13340](#)-B-13 **IN RE: JUNIUS JACKSON**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
12-19-2024 [\[12\]](#)

LILIAN TSANG/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing in this matter.

DISPOSITION: Overruled.

ORDER: The court will prepare the order.

This Matter was originally heard on January 15, 2025. Doc. #21.

Chapter 13 trustee Lilian G. Tsang ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Junius Jackson ("Debtors") on November 18, 2024, on the following basis:

1. Debtor's plan relies on Debtor's *Motion to Value Collateral* filed regarding a 2016 Volkswagen Passat listed in Class B and securing the debt held by Regional Acceptance Company. At the time this Objection was filed, no *Motion to Value Collateral* had been filed.

Doc. #12. Debtor filed the *Motion to Value Collateral* on January 7, 2025. Doc. #16. The court has since granted the *Motion to Value Collateral*. See *Item #10, below*. No other grounds for denying confirmation were presented in the instant Objection. Accordingly, the Objection is OVERRULED.

10. [24-13340](#)-B-13 **IN RE: JUNIUS JACKSON**
[TCS-1](#)

MOTION TO VALUE COLLATERAL OF REGIONAL ACCEPTANCE COMPANY
1-7-2025 [\[16\]](#)

JUNIUS JACKSON/MV
TIMOTHY SPRINGER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

Junius Jackson ("Debtor") moves for an order valuing a 2016 Volkswagen Passat ("Vehicle") at \$10,975.00 under 11 U.S.C. § 506(a). Doc. #16. Vehicle is encumbered by a purchase money security interest in favor of Regional Acceptance Company ("Creditor"). *Id.*; *cf.* Proof of Claim #3-1. Creditor asserts a claim for the security interest in the amount of \$17,716.85. POC #3-1.

Debtor complied with Fed. R. Bankr. P. 3012(b) and 7004(b)(3) by serving Creditor's registered agent and serving Creditor at the address listed on the POC #3-1 on January 7, 2025. Doc. #20.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

No party in interest timely filed written opposition. This motion will be GRANTED.

11 U.S.C. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

11 U.S.C. § 506(a)(1), which applies to all debtors under this title, states:

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

11 U.S.C. § 506(a)(2) states:

If the debtor is an individual in a case under chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. With respect to 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.

Here, Debtors borrowed money from Creditor to purchase Vehicle on or about October 23, 2017, which is more than 910 days preceding the November 18, 2024, petition date. Doc. #16; POC 3-1 at Pg. 5. Thus, the elements of § 1325(a)(*) are not met and § 506 is applicable.

Debtor declares Vehicle has a replacement value of \$10,975.00. Doc. #18. Debtor is competent to testify as to the value of the Vehicle. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. Creditor's secured claim will be fixed at \$10,975.00. The proposed order shall specifically identify the collateral and the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

11. [24-13541](#)-B-13 **IN RE: ANTONIO HINOJOSA**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG
1-17-2025 [\[13\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to March 5, 2025, at 9:00 a.m.

ORDER: The court will issue an order.

Chapter 13 trustee Lilian G. Tsang ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Antonio Hinojosa ("Debtor") on December 8, 2024, on the following basis:

1. The plan proposes to pay 0% to general unsecured creditors, and Debtor has no unsecured priority debt. Trustee estimates that the case has a liquidation value of \$540.75, and so a 0% plan is inadequate.

Doc. #13.

This objection will be CONTINUED to **March 5, 2025, at 9:00 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or the objection to confirmation is withdrawn, the Debtor shall file and serve a written response to the Objection not later than **14 days before the hearing**. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Any reply shall be served no later than **7 days before the hearing**.

If the Debtor elects to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than **7 days before the hearing**. If the Debtor does not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

12. [24-13541](#)-B-13 **IN RE: ANTONIO HINOJOSA**
[NLG-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY NEW AMERICAN FUNDING, LLC
1-21-2025 [\[16\]](#)

NEW AMERICAN FUNDING, LLC/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
NICHOLE GLOWIN/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to March 5, 2025, at 9:00 a.m.

ORDER: The court will issue an order.

New American Funding, LLC ("Creditor") objects to confirmation of the *Chapter 13 Plan* filed by Antonio Hinojosa ("Debtor") on December 8, 2024, on the following basis:

1. The plan understates the prepetition arrearage on the secured claim held by Creditor. To provide for the proper arrearage amount, the plan payment must be increased by a minimum of \$85.14 per month.

Doc. #16.

The court notes Creditor has not yet filed a proof of claim though the deadline to do so looms. The proof of claim will control the Trustee's disbursements under the plan approved in this District. It will be up to the Debtor to object to the claim's allowance.

This objection will be CONTINUED to **March 5, 2025, at 9:00 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or the objection to confirmation is withdrawn, the Debtor shall file and serve a written response to the Objection not later than **14 days before the hearing**. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Any reply shall be served no later than **7 days before the hearing**.

If the Debtor elects to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than **7 days before the hearing**. If the Debtor does not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

13. [24-12750](#)-B-13 **IN RE: IRENE MEDINA**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY LILIAN TSANG
10-28-2024 [\[12\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing in this matter.

DISPOSITION: Withdrawn.

No order is required.

On January 30, 2025, the Trustee withdrew the Objection to Confirmation. Accordingly, this Objection is WITHDRAWN.

14. [24-11054](#)-B-13 **IN RE: ANGELA OHANIAN**
[JCW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR
RELIEF FROM CO-DEBTOR STAY
12-17-2024 [\[40\]](#)

ALLY BANK/MV
JAMES BEIRNE/ATTY. FOR DBT.
JENNIFER WONG/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

Ally Bank ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) and termination of the co-debtor stay of § 1301 with respect to 2017 Volkswagen Golf TSI Wolfsburg Edition Hatchback Sedan 4D. Doc. #40. Movant also requests waiver of the 14-day of Federal Rule of Bankruptcy Procedure ("Rule") 4001(a)(3).

Angela Ohanian ("Debtor") and Samantha Corine Phyllis Kopp ("Kopp" or "Co-Debtor") did not file opposition. Debtor's Chapter 13 Plan does not list Movant as a Class 4 creditor. Doc. #3. The relationship between Debtor and Kopp is unclear from the record, but while Kopp is not a party to this bankruptcy, it appears she was co-obligor to the loan. Doc. #44 (Exhibit B). The Vehicle was repossessed on October 30, 2024. Doc. #44 (Exhibit E). No other party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the

creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case-by-case basis." *In re Mac Donald*, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because Debtor and Co-Debtor have failed to make at least nineteen (19) complete pre- and post-petition payments. The Movant has produced evidence that Debtor and Co-Debtor are delinquent at least \$12,084.14 and the entire balance of \$26,591.99 is due. Doc. #42. Additionally, the Vehicle was repossessed on October 30, 2024. Doc. #43. Since the Vehicle has been recovered, the only issue is disposition of the collateral.

The court also finds that there no equity in the Vehicle for the estate and the Vehicle is not necessary to an effective reorganization because Debtor did not list Movant as a Class 4 creditor. The Vehicle is valued at \$11,547.00 and Debtor and Co-Debtor owe \$26,591.99. Doc. #42.

Accordingly, the motion will be granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) and § 1301 to permit the Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Fed. R. Bankr. P. 4001(a)(3) will be ordered waived because Debtor and Co-Debtor have failed to make at least 19 pre- and post-petition payments to Movant, and the Vehicle is a depreciating asset.

15. [22-10562](#)-B-13 **IN RE: SYLVIA OGDEN**
[TCS-2](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF TIMOTHY C.
SPRINGER AND NANCY D. KLEPAC FOR TIMOTHY C. SPRINGER,
DEBTORS ATTORNEY(S)
1-4-2025 [\[37\]](#)

TIMOTHY SPRINGER/ATTY. FOR DBT.

FINAL RULING: There will be no hearing in this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

Nancy Klepac and the Law Offices of Timothy Springer ("Applicant"),
attorney for Sylvia Ogden("Debtor"), requests interim compensation
in the sum of **\$16,775.00** under 11 U.S.C. § 330 and § 331. Doc. #37
et seq. This amount consists of **\$16,775.00** fees and **\$0.00** in
expenses from **March 1, 2022, through October 24, 2024**. *Id.*

Debtor executed a statement of consent dated October 29, 2024,
indicating that Debtor has read the fee application and approves the
same. Doc. #37 at § 9(7).

No party in interest timely filed written opposition. This motion
will be GRANTED.

This motion was set for hearing on 28 days' notice as required by
Local Rule of Practice ("LBR") 9014-1(f)(1) and Fed. R. Bankr. P.
("Rule") 2002(a)(6). The failure of the creditors, the chapter 13
trustee, the U.S. Trustee, or any other party in interest to file
written opposition at least 14 days prior to the hearing as required
by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to
the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53
(9th Cir. 1995). Further, because the court will not materially
alter the relief requested by the moving party, an actual hearing is
unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th
Cir. 2006). Therefore, the defaults of the above-mentioned parties
in interest are entered and the matter will be resolved without oral
argument. Upon default, factual allegations will be taken as true
(except those relating to amounts of damages). *Televideo Sys. Inc.*
v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due
process requires that a plaintiff make a *prima facie* showing that
they are entitled to the relief sought, which the movant has done
here.

Section 3.05 of the *Chapter 13 Plan* dated April 2, 2022, confirmed
July 7, 2022, indicates that Applicant was paid \$212.00 prior to
filing the case and, subject to court approval, additional fees of
\$19,788.00 shall be paid through the plan upon court approval by
filing and serving a motion in accordance with 11 U.S.C. §§ 329 and
330, and Rules 2002, 2016-17. Docs. #3, #14.

Applicant's firm provided **44.5** billable hours at the following rates, totaling **\$16,775.00** in fees:

Professional	Rate	Billed	Total
Nancy Klepac	\$350.00	33.1	\$13,240.00
Timothy Springer	\$350.00	7.3	\$2,920.00
Virginia Ellis	\$150.00	4.1	\$615.00
Total Hours & Fees		44.5	\$16,775.00

Docs. #34, #36. Applicant does not seek an award for expenses.

11 U.S.C. § 330(a)(1)(A) & (B) permits approval of "reasonable compensation for actual necessary services rendered by . . . [a] professional person" and "reimbursement for actual, necessary expenses." In determining the amount of reasonable compensation to be awarded to a professional person, the court shall consider the nature, extent, and value of such services, considering all relevant factors, including those enumerated in subsections (a)(3)(A) through (E). § 330(a)(3).

11 U.S.C. § 331 authorizes the award after notice and hearing of an interim award subject to subsequent final approval by the court pursuant to § 330.

Applicant's services here included, without limitation: prepetition consultation and fact gathering; preparation of voluntary petition, schedules and Form 22C; independent verification of information; amendments to petitions and/or schedules; original plan, hearings, objections; 341 preparation and attendance; claim administration/objections; fee applications; and case administration. The court finds these services and expenses reasonable, actual, and necessary.

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. Applicant shall be awarded **\$16,775.00** in fees as reasonable compensation for services rendered and **\$0.00** in reimbursement of actual, necessary expenses on an interim basis under 11 U.S.C. § 330 and § 331. The chapter 13 trustee will be authorized to pay Applicant **\$16,775.00** through the confirmed plan for services and expenses from **March 1, 2022, through October 24, 2024**.

16. [24-12864](#)-B-13 **IN RE: ALLAN/MADELINE WINANS**
[RSW-1](#)

MOTION TO CONFIRM PLAN
12-12-2024 [\[26\]](#)

MADELINE WINANS/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to March 5, 2025, at 9:00 a.m.

ORDER: The court will issue an order.

Allan and Madeline Winans ("Debtor") moves for an order confirming the *First Modified Chapter 13 Plan* dated December 12, 2024. Doc. #30. No plan has been confirmed thus far. Chapter 13 trustee Lilian G. Tsang ("Trustee") timely objected to confirmation of the plan for the following reason(s):

1. The modified plan proposes to move CarMax Business Services LLC ("CarMax") from Class 2 to Class 3. However, the plan does not address the \$336.29 payment which Trustee distributed to CarMax under the original plan.
2. The modified plan proposes to treat Ally Financial Inc. as a Class 2 creditor and pay the value of the auto securing the claim, but no motion for valuation has been filed, let alone ruled upon.
3. The modified plan calls for a monthly plan payment of \$1,230.00 for 36 months. However, the case was filed on October 1, 2024, and December 2024 was month 2 of the plan. Accordingly, under the modified plan as written, Debtor is delinquent by \$16.00 for the December payment, with additional \$1,230.00 payments accruing.

Doc. #40.

This motion to confirm plan will be CONTINUED to **March 6, 2025, at 9:00 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or all objections to confirmation are withdrawn, the Debtor shall file and serve a written response to the objections no later than fourteen (14) days before the continued hearing date. The response shall specifically address each issue raised in the objection(s) to confirmation, state whether each issue is disputed or undisputed, and include admissible evidence to support the Debtor's position. Any replies shall be filed and served no later than seven (7) days prior to the hearing date.

If the Debtor elects to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than seven (7) days before the continued hearing date. If the Debtor does not timely file a modified plan or a written response, the objection

will be sustained on the grounds stated, and the motion will be denied without further hearing.

17. [24-12495](#)-B-13 **IN RE: SHANNON SIMPSON**
[LGT-1](#)

CONTINUED MOTION TO DISMISS CASE
11-26-2024 [\[27\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

NO RULING.

18. [24-12495](#)-B-13 **IN RE: SHANNON SIMPSON**
[RSW-2](#)

MOTION TO CONFIRM PLAN
12-19-2024 [\[35\]](#)

SHANNON SIMPSON/MV
ROBERT WILLIAMS/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Denied or granted for reasons below.

ORDER: The minutes of the hearing will be the court's findings and conclusions. Order preparation determined at the hearing.

Chapter 13 trustee Lilian G. Tsang ("Trustee") objects to confirmation of the *First Modified Chapter 13 Plan* filed Shannon Simpson ("Debtor") on December 19, 2024, on the following basis:

1. The Trustee cannot determine feasibility on account of a Motion to Value Collateral pending before the court.
2. The plan includes Nonstandard Provisions alluding to a home loan modification, but Trustee is not aware of any home loan modifications in progress.
3. Debtor's Disclosure of Compensation for Attorney is missing Part D on number 5 of the form and must be amended.

Doc. #48. On January 17, 2025, the Trustee supplemented her Opposition as follows:

1. The valuation issue remains unresolved but is set for hearing on February 5, 2025.
2. The objection to the plan's Nonstandard Provisions has not been resolved.
3. Debtor's Disclosure of Attorney Compensation has not been amended.

4. Debtor failed to appear at the 341 meeting conducted on January 14, 2025, which represents Debtor's fourth continued hearing, none of which she has shown up for. The fifth continued meeting is set for January 21, 2025.
5. Debtor has failed to provide her last filed tax returns.
6. The plan does not provide for the secured portion and priority portion of the IRS's claim.

With regard to Objection #1, the court has granted Debtor's *Motion to Value Collateral*. See Item #14, below.

On January 21, 2025, the Debtor filed a response to the Opposition stating:

1. As of the date the response was filed, no opposition to the valuation motion had been filed.
2. An Amended Attorney Disclosure Statement has been filed.
3. The Debtor was unable to appear at the 341 meeting due to "technical difficulties," but she will attend the new hearing date on February 4, 2025.
4. Debtor has not been required to file tax returns since 2016 because she is a disabled veteran. Debtor will submit 2016 returns if they can be found and will provide a declaration as to not be required to file.
5. Debtor believes the plan will be feasible once the IRS acknowledges the fact that she has not be required to file returns since 2016. There is no requirement that the IRS's secured claim be provided for in the plan. Debtor concedes that feasibility is conditioned on getting a home loan modification, which has not been accomplished yet.

Doc. #58. While the Debtor's *Motion for Valuation* has been granted (See Item #19, below), the remaining objections are unresolved.

If the Trustee does not withdraw the Objection, this matter will be called and proceed as scheduled. The court will inquire as to whether the Trustee's objections have been resolved. The court notes the complete lack of evidence on at least two issues: the "technical difficulties" allegedly experienced by the debtor preventing attendance at the meeting of creditors and the assertion that the debtor has not been required to pay taxes because of a disability.

If the objections have not been resolved, the court is inclined to DENY the motion for confirmation for lack of evidence or proof of the elements of § 1325. If the Trustee withdraws the Objections and Debtor's evidentiary burden is met at the hearing, this motion may be GRANTED subject to the agreement of the Trustee and the Debtor.

If granted, the confirmation order shall include the docket control number of the motion, shall reference the plan by the date it was filed, and shall be approved as to form by Trustee.

19. [24-12495](#)-B-13 **IN RE: SHANNON SIMPSON**
[RSW-3](#)

MOTION TO VALUE COLLATERAL OF HUGHES FEDERAL CREDIT UNION
12-19-2024 [\[41\]](#)

SHANNON SIMPSON/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

Shannon Simpson ("Debtor") moves for an order valuing a 2004 Chevrolet Silverado Duramax ("Vehicle") at \$2,500 under 11 U.S.C. § 506(a). Doc. #16. Vehicle is encumbered by a purchase money security interest in favor of Hughes Federal Credit Union ("Creditor"). *Id.*; *cf.* Proof of Claim #2-1. Creditor asserts a claim for the security interest in the amount of \$7,467.65. POC #2-1.

Debtor complied with Fed. R. Bankr. P. 3012(b) and 7004(b)(3) by serving Creditor by certified mail at its corporate headquarters and to the attention of the President and by serving Creditor at the address listed on the Proof of Claim on December 19, 2024. Doc. #45.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

No party in interest timely filed written opposition. This motion will be GRANTED.

11 U.S.C. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

11 U.S.C. § 506(a)(1), which applies to all debtors under this title, states:

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

11 U.S.C. § 506(a)(2) states:

If the debtor is an individual in a case under chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. With respect to 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.

Here, Debtors borrowed money from Creditor to purchase Vehicle sometime in March of 2021, which is more than 910 days preceding August 27, 2024, petition date. Doc. #43. Thus, the elements of § 1325(a)(*) are not met and § 506 is applicable.

Debtor declares Vehicle has a replacement value of \$2,500.00. Doc. #43. Debtor is competent to testify as to the value of the Vehicle. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. Creditor's secured claim will be fixed at \$2,500.00. The proposed order shall specifically identify the collateral and the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

20. [24-12596](#)-B-13 **IN RE: GERARDO SERRANO**
[RSW-2](#)

MOTION TO CONFIRM PLAN
12-12-2024 [\[27\]](#)

GERARDO SERRANO/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in
conformance with the ruling below.

Gerardo Serrano ("Debtor") seeks an order confirming the *First Modified Chapter 13 Plan* dated December 12, 2024. Doc. #29. No plan has been confirmed so far. The 60-month plan proposes the following terms:

1. Debtor's payment for months 1-21 will be \$1,200.00. Debtor's payments for months 22-60 will be \$200.00 per month. Per Section 7.03, the higher initial monthly payment will allow Debtor to pay \$963.33 for months 1-21 to secured creditors Douglas and Lori Hallmark. Debtor proposes to pay off the debt in full by month 22 by refinancing or selling the house which secures the debt.
2. Outstanding Attorney's fees in the amount of \$7,000.00 to be paid through the plan.
3. Secured creditors to be sorted into appropriate Classes and paid as follows:
 - a. Douglas and Lori Hallmark (security interest in property at 4437 Race Trail, Frazier Park, CA). \$148,195.76 at 4.00% to be paid according to Special Provision 7.03.
4. A dividend of 0% to unsecured creditors.

Doc. #29.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

This motion will be GRANTED. The confirmation order shall include the docket control number of the motion and reference the plan by the date it was filed.

10:00 AM

1. [24-12882](#)-B-7 **IN RE: SC COMMUNICATIONS, INC.**
[JMV-1](#)

MOTION TO EMPLOY GOULD AUCTION AND APPRAISAL COMPANY AS
AUCTIONEER, AUTHORIZING SALE OF PROPERTY AT PUBLIC AUCTION
AND AUTHORIZING PAYMENT OF AUCTIONEER FEES AND EXPENSES
1-14-2025 [\[12\]](#)

JEFFREY VETTER/MV
LEONARD WELSH/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. The Moving Party
shall submit a proposed order after hearing.

Chapter 7 trustee Jeffrey Vetter ("Trustee") seeks authorization to
(a) employ Jerry Gould of Gould Auction and Appraisal Company
("Auctioneer") under 11 U.S.C. § 328; (b) sell the estate's interest
in three assets of the estate ("the Assets") described below under
§ 363(b)(1); and (c) compensate Auctioneer under §§ 327(a) and 328.
Doc. #12. The auction will be held on or after February 15, 2025, at
9:00 a.m. at 6100 Price Way, Bakersfield, California. *Id.*

Written opposition was not required and may be presented at the
hearing. In the absence of opposition, this motion will be GRANTED.

This motion was filed and served on at least 21 days' notice
pursuant to Local Rule of Practice ("LBR") 9014-1(f)(2) and Fed. R.
Bankr. P. ("Rule") 2002(a)(2) and (a)(6) and will proceed as
scheduled. Unless opposition is presented at the hearing, the court
intends to enter the respondents' defaults and grant the motion. If
opposition is presented at the hearing, the court will consider the
opposition and whether further hearing is proper pursuant to LBR
9014-1(f)(2). The court will issue an order if a further hearing is
necessary.

Employment and Compensation

This motion affects the proposed disposition of estate assets and
Auctioneer. Under Fed. R. Civ. P. ("Civ. Rule") 21 (Rule 7021
incorporated in contested matters under Rule 9014(c)), the court
will exercise its discretion to add Auctioneer as a party.

LBR 9014-1(d)(5)(B)(iii) permits joinder of requests for
authorization to employ a professional, i.e., auctioneer, for sale
of estate property at public auction, and allowance of fees and
expenses for such professional under 11 U.S.C. §§ 327, 328, 330,
363, and Rules 6004-05.

11 U.S.C. § 327 allows the trustee, with the court's approval, to employ one or more attorneys, accountants, auctioneers, or other professional persons to represent or assist the trustee in carrying out the trustee's duties. The professional is required to be a disinterested person and neither hold nor represent interests adverse to the estate. § 327(a).

11 U.S.C. § 328(a) permits employment of "a professional person under section 327" on "any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed or percentage fee basis, or on a contingent fee basis." Section 328(a) further "permits a professional to have the terms and conditions of its employment pre-approved by the bankruptcy court, such that the bankruptcy court may alter the agreed-upon compensation only 'if such terms and conditions and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions.'" *In re Circle K Corp.*, 279 F.3d 669, 671 (9th Cir. 2002).

Under these sections, Trustee requests to employ and compensate Auctioneer by paying: (i) a 15% commission on the gross proceeds from the sale; (ii) estimated expenses not to exceed \$300.00 for storage and sale; and "extraordinary expenses" for things like repair or detail work deemed necessary by the Trustee up to a maximum of \$350.00 without approval of the court. Doc. #15. In addition to those fees and expenses, Auctioneer charges buyers an additional 10% premium on the purchase price, as well as an additional 3% fee to be paid directly to online service Proxibid by any buyer who makes use of that service. *Id.* The buyer's premium and commission include Auctioneer's necessary expenses, including, but not limited to, marketing and advertising of the Assets, and other costs of sale. *Id.*

Trustee and Auctioneer filed declarations attesting that Auctioneer is a disinterested person as defined in § 101(14) and does not hold any interests adverse to the estate in accordance with § 327(a). Docs. ##14-15. With respect to Debtor, Auctioneer is not a creditor, equity security holder, insider, investment banker for a security of the debtor within the three years before the petition date, or an attorney for such investment banker, and within two years of the petition date was not a director, officer, or employee of the Debtor or an investment banker. *Id.* Auctioneer does not have an interest materially adverse to the interest of the estate, creditors, Debtor, equity security holders, an investment banker for a security of the debtors, or any other party in interest, and had not served as an examiner in this case. *Id.* Auctioneer does not have any connection with any creditors, parties in interests, their attorneys, accountants, the U.S. Trustee, or anyone employed by the U.S. Trustee. *Id.* Additionally, no agreement exists between Auctioneer or any other person for the sharing of compensation received by Auctioneer in connection with the services rendered. *Id.*

Trustee declares that it is necessary to employ Auctioneer to liquidate the Assets. Doc. #15. Trustee believes that the proposed fees and expenses for services are reasonable and customary for the

services to be rendered by Auctioneer. *Id.* Auctioneer will assist Trustee by (1) actively advertising the sale of the property, (2) generally performing and assisting Trustee in matters customarily done and performed by auctioneers in connection with an auction sale of property. *Id.*

The court will authorize Auctioneer's employment pursuant to 11 U.S.C. §§ 327(a), 328 and authorize Trustee to pay the 15% commission, plus up to \$300.00 for storage and sale expenses and up to a maximum of \$350.00 for "extraordinary expenses" without approval of the court

Proposed Sale

11 U.S.C. § 363(b)(1) allows the trustee to "sell, or lease, other than in the ordinary course of business, property of the estate." Proposed sales under 11 U.S.C. § 363(b) are reviewed to determine whether they are: (1) in the best interests of the estate resulting from a fair and reasonable price; (2) supported by a valid business judgment; and (3) proposed in good faith. *In re Alaska Fishing Adventure, LLC*, 594 B.R. 883, 887 (Bankr. D. Alaska 2018) citing *240 North Brand Partners, Ltd. v. Colony GFP Partners, Ltd. P'ship (In re 240 N. Brand Partners, Ltd.)*, 200 B.R. 653, 659 (B.A.P. 9th Cir. 1996); *In re Wilde Horse Enters., Inc.*, 136 B.R. 830, 841 (Bankr. C.D. Cal. 1991). In the context of sales of estate property under § 363, a bankruptcy court "should determine only whether the trustee's judgment was reasonable and whether a sound business justification exists supporting the sale and its terms." *Alaska Fishing Adventure, LLC*, 594 B.R. at 889, quoting 3 Collier on Bankruptcy ¶ 363.02[4] (Richard Levin & Henry J. Sommer eds., 16th ed.). "[T]he trustee's business judgment is to be given 'great judicial deference.'" *Id.*, citing *In re Psychometric Sys., Inc.*, 367 B.R. 670, 674 (Bankr. D. Colo. 2007); *In re Bakalis*, 220 B.R. 525, 531-32 (Bankr. E.D.N.Y. 1998).

Here, the Assets include the following:

Asset	Value per Schedule A/B	Encumbrance per Schedule D
2019 GMC Canyon Truck	\$18,270.00	\$9,452.32 (in favor of GM Financial)
2008 GMC Sierra Truck	\$5,974.00	None
2018 Honda Accord	\$12,061.00	None
Total	\$36,305.00	\$9,452.32

Doc. #15. Only the GMC Canyon is encumbered. *Id.*; See Doc. #1 (Sched. A/B and D).

If Trustee sells Vehicle at public auction at the scheduled sale price under § 363(b) and Debtor's initial exemption is considered valid, then the proposed sale would be illustrated as follows:

Sale price	\$36,305.00
Auctioneer fees (15%)	(\$5,445.750)
Estimated expenses (\leq \$500)	(\$650.00)
Satisfaction of liens	(\$9,452.32)
Estimated net proceeds (\geq)	\$26,202.68

Trustee believes that using the auction process to sell Vehicle will result in the quickest liquidation for the best possible price because it will be exposed to many prospective purchasers. Doc. #15. Based on Trustee's experience, this could yield the highest net recovery to the estate, both in terms of time efficiency and the amount that will be realized from the sale. *Id.*

Sale by auction under these circumstances should maximize potential recovery for the estate such that the sale of the Vehicle would be in the best interests of the estate if it will provide liquidity to the estate that can be distributed for the benefit of unsecured claims. The sale appears to be supported by a valid business judgment and proposed in good faith. Therefore, this sale is an appropriate exercise of Trustee's business judgment and will be given deference.

Conclusion

This matter will be called and proceed as scheduled. In the absence of opposition, this motion will be GRANTED. Trustee will be permitted to employ Auctioneer, sell the Vehicle at public auction, and pay Auctioneer for its services as outlined above. If the sale is completed, Trustee will be authorized to compensate Auctioneer on a percentage collected basis: 15% of gross proceeds from the sale and payment of up to \$300.00 for ordinary expenses and up to \$350.00 for extraordinary expenses.

11:00 AM

1. [23-12573](#)-B-7 **IN RE: JULIE BLACK**
[24-1050](#) [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT
11-21-2024 [[1](#)]

BLACK V. DEPARTMENT OF EDUCATION/AIDVANTAGE
NEIL SCHWARTZ/ATTY. FOR PL.

FINAL RULING: There will be no hearing in this matter.

DISPOSITION: Concluded and dropped from calendar.

ORDER: The court will prepare the order.

On January 24, 2025, Debtor filed a *Notice of Withdrawal* as to the Complaint in this adversary proceeding. Doc. #23. Accordingly, this Status Conference is CONCLUDED and will be DROPPED from the calendar.