



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

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

**DAY: TUESDAY**  
**DATE: FEBRUARY 13, 2024**  
**CALENDAR: 9:00 A.M. CHAPTER 13 CASES**

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Unless otherwise ordered, all matters before Chief Judge Fredrick E. Clement shall be heard simultaneously: (1) **IN PERSON** in Courtroom 28, (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**.

You may choose any of these options unless otherwise ordered.

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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. Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
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Please join at least 10 minutes prior to the start of the calendar. You are required to give the court 24 hours advance notice on the [Court Calendar](#).

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## PRE-HEARING DISPOSITION INSTRUCTIONS

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### 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.

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1. [23-21308](#)-A-13     **IN RE: RICHARD/LYNDA BYERS**  
[CK-4](#)

MOTION TO CONFIRM PLAN  
12-19-2023    [\[62\]](#)

CATHERINE KING/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 required

**Disposition:** Granted

**Order:** Prepared by the movant, approved by the trustee

**Subject:** Second Amended Chapter 13 Plan, filed August 24, 2023

### **DEFAULT OF RESPONDENT**

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).

The debtor seeks confirmation of the Second Amended Chapter 13 Plan, ECF No. 34. The Chapter 13 trustee has filed a non-opposition to the motion, ECF No. 67.

### **CHAPTER 13 PLAN 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).

The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

2. [22-23014](#)-A-13     **IN RE: DANIEL/VICKI JACOBS**  
[PSB-3](#)

OBJECTION TO CLAIM OF NETCREDIT, CLAIM NUMBER 6-1  
12-27-2023    [\[55\]](#)

PAULDEEP BAINS/ATTY. FOR DBT.

### **Final Ruling**

**Objection:** Objection to Claim

**Notice:** LBR 3007-1(b)(1); written opposition required

**Disposition:** Overruled without prejudice

**Order:** Civil minute order

The debtors, object to the allowance of the claim of Netcredit, Claim Nos. 6. The court will overrule the objection for the following reasons.

### **SERVICE INSUFFICIENT**

Rule 3007 requires service of claim objections. It provides: "The objection and notice shall be served on a claimant by first-class mail to the person most recently designated on the claimant's original or amended proof of claim as the person to receive notices, at the address so indicated[.]" Fed. R. Bankr. P. 3007(a)(1).

### Certificate of Service

The court is unable to determine if the present objection has been served on the claimant as required by Rule 3007.

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).

While counsel has used Form 7-005 in memorializing service, the form has not been completed with any information. The form is blank. As such, the caption, case number, required declarations, and signatures are all incomplete. Certificate of Service, ECF No. 59. The court is unable to find that the proper parties were served under Rule 3007.

The court will overrule the objection without prejudice.

### **CIVIL MINUTE ORDER**

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

The debtors' claim objection has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the objection is overruled without prejudice.

3. [23-24215](#)-A-13     **IN RE: SANDRA LYMOND**  
[BRL-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY STEVEN P. DICK AND  
CHRISTINA S. DICK  
1-23-2024    [\[20\]](#)

MARC VOISENAT/ATTY. FOR DBT.  
BENJAMIN LEVINSON/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 26, 2024, at 9:00 a.m.

**Order:** Civil minute order

Creditors, Steven P. Dick and Christina S. Dick, object 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later  
than March 5, 2024. 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 creditors' objection, the debtor(s) shall file  
and serve a written response to the objection not later than March  
5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the creditor's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the objection will be sustained on the grounds stated in the objection without further notice or hearing.

4. [23-24215](#)-A-13      **IN RE: SANDRA LYMOND**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
1-10-2024    [\[14\]](#)

MARC VOISENAT/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 26, 2024, 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later than March 5, 2024. 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 not later than March 5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the Chapter 13 trustee's objection will be sustained on the grounds stated in the objection without further notice or hearing.

5. [23-24322](#)-A-13      **IN RE: CHARLES/TAWANA MILLER**  
[NLG-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY CARRINGTON MORTGAGE  
SERVICES, LLC  
1-11-2024    [\[15\]](#)

JULIUS CHERRY/ATTY. FOR DBT.  
NICHOLE GLOWIN/ATTY. FOR MV.

**\*[Since posting its original rulings, the court has changed its intended ruling on this matter].**

#### **No Ruling**

**Counsel for the objecting creditor, Nichole L. Glowin, and debtors' counsel, Julius Cherry, are ordered to appear in this matter on February 13, 2024, at 9:00 a.m. in Department A. Appearance via Zoom or Court Call is authorized.**

6. [23-24323](#)-A-13     **IN RE: CYNTHIA PEREZ**  
[CAS-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY BRIDGECREST CREDIT  
COMPANY, LLC  
1-3-2024     [\[15\]](#)

PETER CIANCHETTA/ATTY. FOR DBT.  
CHERYL SKIGIN/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 26, 2024, at 9:00 a.m.

**Order:** Civil minute order

Creditor, Bridgecrest Credit Company, 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later  
than March 5, 2024. 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 not later than March  
5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the creditor's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the objection will be sustained on the grounds stated in the objection without further notice or hearing.

7. [23-24323](#)-A-13     **IN RE: CYNTHIA PEREZ**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
1-10-2024    [\[19\]](#)

PETER CIANCHETTA/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 26, 2024, 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later than March 5, 2024. 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 not later than March 5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the Chapter 13 trustee's objection will be sustained on the grounds stated in the objection without further notice or hearing.

8. [23-24124](#)-A-13     **IN RE: CHRISTY/JAMES CHAPPELL**  
[SLH-1](#)

MOTION TO CONFIRM PLAN  
12-29-2023    [\[19\]](#)

SETH HANSON/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 required

**Disposition:** Granted

**Order:** Prepared by the movant, approved by the trustee

**Subject:** First Amended Chapter 13 Plan, filed December 20, 2023

### **DEFAULT OF RESPONDENT**

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).

The debtor seeks confirmation of the First Amended Chapter 13 Plan, ECF No. 17. The plan is supported by Schedules I and J filed, December 20, 2023, ECF Nos. 15, 16, 18. The Chapter 13 trustee has filed a non-opposition to the motion, 24.

### **CHAPTER 13 PLAN 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).

The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

9. [23-22927](#)-A-13     **IN RE: HOWARD/MICHELE JOHNSON**  
[MCT-4](#)

AMENDED MOTION TO CONFIRM PLAN  
12-26-2023    [\[55\]](#)

MELANIE TAVARE/ATTY. FOR DBT.

### **Final Ruling**

**Motion:** Confirm Chapter 13 Plan

**Notice:** LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by the movant, approved by the trustee

**Subject:** Third Amended Chapter 13 Plan, filed December 21, 2023

### **DEFAULT OF RESPONDENT**

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).

The debtor seeks confirmation of the Third Amended Chapter 13 Plan, ECF No. 51. The Chapter 13 trustee has filed a non-opposition to the motion, 67.

### **CHAPTER 13 PLAN 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).

The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

10. [23-24427](#)-A-13     **IN RE: MICHAEL/TINA NELSON**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
1-17-2024    [[15](#)]

RICHARD STEFFAN/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.

11. [23-24427](#)-A-13     **IN RE: MICHAEL/TINA NELSON**  
[PPR-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY ONSLOW BAY FINANCIAL  
LLC  
1-18-2024    [[19](#)]

RICHARD STEFFAN/ATTY. FOR DBT.  
LEE RAPHAEL/ATTY. FOR MV.

#### **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.

12. [23-23829](#)-A-13      **IN RE: AARON MCCONVILLE**

MOTION TO VALUE COLLATERAL OF REGIONAL ACCEPTANCE  
CORPORATION  
1-5-2024    [[51](#)]

AARON MCCONVILLE/ATTY. FOR MV.  
DEBTOR DISMISSED: 12/20/23

#### **Final Ruling**

This case was dismissed on December 20, 2023. This motion is removed from the calendar as moot. No appearances are required.

13. [23-24329](#)-A-13      **IN RE: ALEXANDER/VANERY HAYMORE**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
1-17-2024    [[17](#)]

MICHAEL HAYS/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 26, 2024, 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later than March 5, 2024. 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 not later than March 5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the Chapter 13 trustee's objection will be sustained on the grounds stated in the objection without further notice or hearing.

14. [23-24429](#)-A-13      **IN RE: AMELIA ALLEN**  
[RAS-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DEUTSCHE BANK NATIONAL  
TRUST COMPANY  
1-18-2024    [\[13\]](#)

MOHAMMAD MOKARRAM/ATTY. FOR DBT.  
FANNY WAN/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 26, 2024, at 9:00 a.m.

**Order:** Civil minute order

Creditor, Deutsche Bank Trust Company 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later  
than March 5, 2024. 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 not later than March  
5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the creditor's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the objection will be sustained on the grounds stated in the objection without further notice or hearing.

15. [23-23130](#)-A-13      **IN RE: PAUL-MATTHEW FERNANDES**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
1-16-2024    [\[37\]](#)

THOMAS AMBERG/ATTY. FOR DBT.

**\*[Since posting its original rulings, the court has changed its intended ruling on this matter].**

#### **Final Ruling**

As the installment fee has been paid, the order to show cause is discharged. The case will remain pending.

16. [22-22232](#)-A-13     **IN RE: DUANE OTT**  
[DPC-3](#)

MOTION TO DISMISS CASE  
1-10-2024    [\[87\]](#)

MARC VOISENAT/ATTY. FOR DBT.

### **Final Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Continued to February 27, 2024, at 9:00 a.m.

**Order:** Civil minute order

**Opposition Due:** January 30, 2024

**Motion to Modify Plan Filed:** January 11, 2024 - timely

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) and (6) as the debtor has failed to make all payments due under the plan.

A modified plan has been timely filed and set for hearing in this case. The scheduled hearing on the modification is February 27, 2024, 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 February 27, 2024, 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.

17. [23-24334](#)-A-13     **IN RE: WHITNEY BRAKE**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
1-10-2024    [\[13\]](#)

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 26, 2024, 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later than March 5, 2024. 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 not later than March 5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the Chapter 13 trustee's objection will be sustained on the grounds stated in the objection without further notice or hearing.

18. [23-24343](#)-A-13     **IN RE: JAMES/DENISE HEINEMANN**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
1-10-2024    [\[15\]](#)

STEVEN ALPERT/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 26, 2024, 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later than March 5, 2024. 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 not later than March 5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the Chapter 13 trustee's objection will be sustained on the grounds stated in the objection without further notice or hearing.

19. [23-24343](#)-A-13     **IN RE: JAMES/DENISE HEINEMANN**  
[PLG-1](#)

MOTION TO VALUE COLLATERAL OF SYSTEMS & SERVICES  
TECHNOLOGIES, INC.  
1-16-2024    [[19](#)]

STEVEN ALPERT/ATTY. FOR DBT.

### **Final Ruling**

**Motion:** Value Collateral

**Disposition:** Denied without prejudice

**Order:** Civil minute order

As a contested matter, a motion to value collateral is governed by Federal Rule of Bankruptcy Procedure 9014. Fed. R. Bankr. P. 9014(a). Rule 9014 requires Rule 7004 service of motions in contested matters. Fed. R. Bankr. P. 9014(b). Under Rule 7004, service on corporations and other business entities must be made by first class mail addressed "to the attention of an officer, a managing or general agent, or to any other agent authorized by

appointment or by law to receive service of process." Fed. R. Bankr. P. 7004(b) (3).

Service of the motion was insufficient. The proof of service does not indicate that the motion was mailed to the attention of an officer, managing or general agent, or other agent authorized to accept service on behalf of the responding party. Certificate of Service, ECF No. 23.

#### **CIVIL MINUTE ORDER**

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

The debtors' Motion to Value Collateral 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.

20. [23-24349](#)-A-13     **IN RE: GREGORY BIGLIONE AND DOUGLAS KIGHT**  
[CAS-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY BMW BANK OF NORTH  
AMERICA  
1-10-2024    [\[18\]](#)

NIKKI FARRIS/ATTY. FOR DBT.  
CHERYL SKIGIN/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 26, 2024, at 9:00 a.m.

**Order:** Civil minute order

Creditor, BMW Bank of North America 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later than March 5, 2024. 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 not later than March 5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the creditor's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the objection will be sustained on the grounds stated in the objection without further notice or hearing.

21. [23-24349](#)-A-13     **IN RE: GREGORY BIGLIONE AND DOUGLAS KIGHT**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
1-11-2024    [\[22\]](#)

NIKKI FARRIS/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 26, 2024, 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later than March 5, 2024. 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 not later than March 5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the Chapter 13 trustee's objection will be sustained on the grounds stated in the objection without further notice or hearing.

22. [23-24154](#)-A-13     **IN RE: WANMUENG WADKHIAN**  
[ALG-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY FLOYD E. CARLSON,  
TRUSTEE OF THE CARLSON FAMILY TRUST DATED MARCH 27, 2012  
1-11-2024    [\[33\]](#)

MATTHEW DECAMINADA/ATTY. FOR DBT.  
ARNOLD GRAFF/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 26, 2024, at 9:00 a.m.

**Order:** Civil minute order

Creditor, Floyd E. Carlson, Trustee of the Carlson Family Trust 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later than March 5, 2024. 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 not later than March 5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the creditor's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the objection will be sustained on the grounds stated in the objection without further notice or hearing.

23. [23-24154](#)-A-13     **IN RE: WANMUENG WADKHIAN**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE DAVID P. CUSICK  
1-10-2024    [[28](#)]

MATTHEW DECAMINADA/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 26, 2024, 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later than March 5, 2024. 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 not later than March 5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the Chapter 13 trustee's objection will be sustained on the grounds stated in the objection without further notice or hearing.

24. [23-24455](#)-A-13      **IN RE: GLENN WATKINS**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
1-17-2024    [\[14\]](#)

**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.

25. [23-22167](#)-A-13      **IN RE: ROBERT/SHERYL WILLIAMS**  
[CK-1](#)

MOTION TO CONFIRM PLAN  
1-8-2024    [\[28\]](#)

CATHERINE KING/ATTY. FOR DBT.

**Final Ruling**

**Motion:** Confirm Chapter 13 Plan

**Notice:** LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

**Disposition:** Granted

**Order:** Prepared by the movant, approved by the trustee

**Subject:** Amended Chapter 13 Plan, filed January 8, 2024

**DEFAULT OF RESPONDENT**

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).

The debtor seeks confirmation of the Amended Chapter 13 Plan, ECF No. 32. The plan is supported by Schedules I and J filed at the inception of the case on June 30, 2023. The Chapter 13 trustee has filed a non-opposition to the motion, 36.

**CHAPTER 13 PLAN 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).

The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

26. [23-22167](#)-A-13     **IN RE: ROBERT/SHERYL WILLIAMS**  
[DPC-1](#)

MOTION TO DISMISS CASE  
1-5-2024    [\[24\]](#)

CATHERINE KING/ATTY. FOR DBT.

### **Final Ruling**

**Motion:** Dismiss Case

**Notice:** LBR 9014-1(f) (1)

**Disposition:** Denied

**Order:** Civil minute order

The Chapter 13 trustee moves to dismiss the case as the debtor has failed to confirm a plan. The debtors filed a motion to confirm a plan which the court has granted (CK-1). The trustee filed a non-opposition to the motion to confirm, ECF No. 36. Accordingly, the court will deny the motion to dismiss.

### **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 has been presented to the court. Having considered the motion, the opposition, responses, and good cause appearing,

IT IS ORDERED that the motion is denied.

27. [23-24270](#)-A-13     **IN RE: DAVID SIMMONS**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
1-10-2024    [\[29\]](#)

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 26, 2024, 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later than March 5, 2024. 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 not later than March 5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the Chapter 13 trustee's objection will be sustained on the grounds stated in the objection without further notice or hearing.

28. [23-23676](#)-A-13     **IN RE: BARBARA MORAN-SMITH**  
[MOH-1](#)

MOTION TO EMPLOY EXP REALTY OF NORTHERN CALIFORNIA, INC. AS  
REALTOR(S) AND/OR MOTION FOR COMPENSATION FOR EXP REALTY OF  
NORTHERN CALIFORNIA, INC., REALTOR(S)  
1-25-2024    [\[39\]](#)

MICHAEL HAYS/ATTY. FOR DBT.

#### **No Ruling**

29. [23-24382](#)-A-13     **IN RE: VICTOR/ELMY HOPPER**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
1-16-2024    [\[17\]](#)

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 26, 2024, 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later than March 5, 2024. 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 not later than March 5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the Chapter 13 trustee's objection will be sustained on the grounds stated in the objection without further notice or hearing.



30. [23-24383](#)-A-13     **IN RE: THOMAS/DARLEEN ROSINA**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID CUSICK  
1-17-2024    [\[17\]](#)

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 26, 2024, 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later than March 5, 2024. 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 not later than March 5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the Chapter 13 trustee's objection will be sustained on the grounds stated in the objection without further notice or hearing.

31. [23-24487](#)-A-13      **IN RE: JEFFREY/ANNETTE LIENEMANN**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
1-17-2024    [\[15\]](#)

MATTHEW DECAMINADA/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 26, 2024, 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later than March 5, 2024. 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 not later than March 5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the Chapter 13 trustee's objection will be sustained on the grounds stated in the objection without further notice or hearing.

32. [23-24291](#)-A-13     **IN RE: ISRAEL GABRIEL AND LAUREN  
EVANSON-GABRIEL  
[SKI-1](#)**

OBJECTION TO CONFIRMATION OF PLAN BY MERCEDES-BENZ FINANCIAL  
SERVICES USA LLC  
1-4-2024     [\[13\]](#)

MARY TERRANELLA/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 26, 2024, at 9:00 a.m.

**Order:** Civil minute order

Creditor, Mercedes-Benz Services USA, 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 26, 2024, at 9:00 a.m.

IT IS FURTHER ORDERED that 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 no later  
than March 5, 2024. 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 not later than March  
5, 2024; 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 12, 2024. The evidentiary record will close after March 12, 2024; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the creditor's objection by filing a modified plan, not later than March 5, 2024, 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; and

IT IS FURTHER ORDERED that if the debtor(s) fail to undertake any of the foregoing three options, the objection will be sustained on the grounds stated in the objection without further notice or hearing.

33. [23-23697](#)-A-13     **IN RE: SAM/CHREB ROS**  
[MMM-1](#)

MOTION TO AVOID LIEN OF BH FINANCIAL SERVICES, INC.  
1-16-2024    [\[23\]](#)

MOHAMMAD MOKARRAM/ATTY. FOR DBT.

#### **Final Ruling**

**Motion:** Avoid Lien that Impairs Exemption

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

**Disposition:** Granted

**Order:** Prepared by moving party

**Subject Property:** 964 Caversham Way, Galt, California

**Judicial Lien Avoided:** \$9,520.81 (BH Financial Services, Inc.)

**All Other Liens:**

- Deed of Trust \$509,623 (Land Home Financial Servics)

**Exemption:** \$150,000

**Value of Property:** \$506,000

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).

The debtors seek an order avoiding the judicial lien of BH Financial Services, Inc., under 11 U.S.C. § 522(f).

## TRUSTEE OPPOSITION

The Chapter 13 trustee opposes the motion contending that the claim of BH Financial Services, Inc., is not properly provided for as a secured creditor in the debtors' plan. The debtors have proven a prima facie case for avoidance of the judicial lien. The trustee's opposition does not refute such. The trustee's opposition may be a basis for opposing confirmation of the debtors' proposed Chapter 13 plan, however, plan confirmation is not before the court.

## LIEN AVOIDANCE

Section 522(f) of the Bankruptcy Code authorizes the court to avoid a lien "on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled." 11 U.S.C. § 522(f)(1). There are four elements to avoidance of a lien that impairs an exemption: (1) there must be an exemption to which the debtor would have been entitled; (2) the property must be listed on the schedules and claimed as exempt; (3) the lien must impair the exemption claimed; and (4) the lien must be a judicial lien or nonpossessory, nonpurchase-money security interest in property described in § 522(f)(1)(B). *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003). Impairment is statutorily defined: a lien impairs an exemption "to the extent that the sum of - (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens." 11 U.S.C. § 522(f)(2)(A).

The responding party's judicial lien, all other liens, and the exemption amount together exceed the property's value by an amount greater than or equal to the judicial lien. As a result, the responding party's judicial lien will be avoided entirely.

34. [24-20351](#)-A-13     **IN RE: FRED KENDLE**  
[MS-1](#)

MOTION TO IMPOSE AUTOMATIC STAY  
1-29-2024    [[12](#)]

MARK SHMORGON/ATTY. FOR DBT.

**No Ruling**

35. [23-23471](#)-A-13     **IN RE: MARY SCOTT**  
[HAW-1](#)

MOTION TO PERMIT DEBTOR TO DEED JOINT TENANCY INTEREST IN  
RESIDENCE TO HERSELF AND TO SON AND DAUGHTER IN LAW  
1-26-2024    [\[39\]](#)

HELGA WHITE/ATTY. FOR DBT.

**No Ruling**

36. [24-20154](#)-A-13     **IN RE: RICHARD/ANGELA PARRISH**  
[PGM-2](#)

MOTION TO IMPOSE AUTOMATIC STAY  
1-30-2024    [\[21\]](#)

PETER MACALUSO/ATTY. FOR DBT.

**Final Ruling**

**Motion:** Impose the Automatic Stay

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

**Disposition:** Denied

**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).

The debtors seek an order imposing the automatic stay under 11 U.S.C. § 362(c)(4).

**FACTS**

This is the debtors' fourth Chapter 13 filing in 9 years (since 2015) and the debtors' sixth Chapter 13 filing since 2003. The two previously filed Chapter 13 cases were both pending within one year of the filing of the instant case.

The most recently dismissed Chapter 13 case 2023-21645, was dismissed on December 20, 2023, on the Chapter 13 trustee's motion to dismiss (DPC-1) for plan delinquency totaling \$3,400.00 and an anticipated additional payment of \$3,400.00 due prior to the hearing on the motion. Civil Minutes, ECF No. 69. Counsel for the debtors filed opposition to the motion, however, the opposition was not considered as it was unaccompanied by any evidence of the debtors' ability to tender the plan payments as alleged. *Id.*

The debtors declare that the reason for the delinquency in the prior case was:

because we had rain damage that we were not aware of that caused mold and our roof started sinking and leaking. We had to hire a company to come out and do remediation, as our homeowners (sic) insurance would not cover it. We had to have part of the wall removed to take care of the mold and then the roof repaired. This costs (sic) us out of pocket over \$6,000 and we had to fix it because the roof was no longer sound and was leaking.

Declaration, 2:4-11, ECF No. 24.

### **IMPOSITION OF THE STAY**

Upon request of a party in interest, the court may impose the automatic stay where the debtor has had two or more previous bankruptcy cases that were pending within the 1-year period prior to the filing of the current bankruptcy case but were dismissed. See 11 U.S.C. § 362(c)(4)(B). The stay may be imposed "only if the party in interest demonstrates that the filing of the *later case* is in *good faith* as to the creditors to be stayed." *Id.* (emphases added). However, the motion must be filed no later than 30 days after the filing of the later case. *Id.* The statute does not require the hearing to be completed within such 30-day period.

The court finds that 2 or more cases were pending within the one-year period before the filing of the current bankruptcy case but were dismissed.

The court finds that the debtors have failed to demonstrate that the instant case will be successful or to rebut the presumption that the case is filed in good faith as follows.

### **PROPOSED PLAN IS NOT FEASIBLE**

#### Schedule I

The debtors filed Schedule I at the inception of the case. Schedule I, Line 8a indicates that the debtors derive income from either the operation of a business or rents from real property. Schedule I, Line 8a, ECF No. 1. This is supported by the Statement of Current Monthly Income which indicates that the debtors receive rental income of \$2,500.00 per month. Statement of Current Monthly Income, *id.*

However, the debtors have failed to file the attachment of Business Income and Expenses as required. The court notes that the only real property owned by the debtors is their residence and the source of the rents is not disclosed. Schedule A/B, ECF No. 1. The debtors' declaration in support of the motion is silent regarding rental income. As such the court cannot evaluate the feasibility of the debtors' proposed plan. For example, the court cannot determine the source of



the rents, or how long and in what amounts rents have been paid to the debtors.

#### Chapter 13 Plan

The proposed Chapter 13 Plan calls for payments of \$8,000 for 1 month and \$3,400 per month for 59 months. Chapter 13 Plan, Section 7, ECF No. 3.

The plan also provides as follows:

Class 2a Creditor CarMax to receive a lump sum of \$3,000.00 then monthly payments of \$175.00 per month for the remainder of the plan for the 2013 INFINITI.

Class 2b Creditor CarMax to receive a lump sum of \$5,000.00 then monthly payments of \$210.00 per month for the remainder of the plan for the 2011 BMW.

*Id.* (emphasis added).

The total of the proposed Class 2a and 2b payments is \$8,000.

In addition to the Class 2 payments proposed in the plan the plan also provides for Class 1 ongoing monthly mortgage payments in the amount of \$2,158.60 to creditor PHH Mortgage. *Id.*, Section 3.07.

Excluding trustee compensation, the plan payment for the first month of the plan totals \$10,158.60. The payment in the first month of the plan is only \$8,000.

The proposed plan is not feasible on its face.

For the reasons stated in the ruling the court finds that the debtors have failed to prove a prima facie case for imposition of the automatic stay. The court will deny the motion.

#### **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 impose 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 denied.

37. [23-23949](#)-A-13     **IN RE: TANGELA BABBITT**  
[LEH-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
1-30-2024    [[38](#)]

MARK SHMORGON/ATTY. FOR DBT.  
LYLE HAVENS/ATTY. FOR MV.  
MAR-AL, INC. VS.

**No Ruling**