



**UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
HONORABLE RENÉ LASTRETO II  
Department B – Courtroom #13  
Fresno, California**

**Hearing Date: Wednesday, February 14, 2024**

Unless otherwise ordered, all hearings before Judge Lastreto are simultaneously: (1) **IN PERSON** in Courtroom #13 (Fresno hearings only), (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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## 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.

9:30 AM

1. [23-12700](#)-B-13     **IN RE: ANTHONY/ALLYSON DETLEFSEN**  
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG  
1-23-2024     [\[26\]](#)

STEVEN ALPERT/ATTY. FOR DBT.

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

DISPOSITION:                     Continued to March 13, 2023, at 9:30 a.m.

ORDER:                             The court will issue an order.

The Chapter 13 Trustee ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Anthony and Allyson Detlefsen )collectively "Debtors") on December 1, 2023, on the following basis:

1. Schedule I must be amended to disclose Debtors' G.I. Bill income. [11 U.S.C. § 1322(a)].
2. Debtors have failed to file motion to value the collateral of Pentagon Federal Credit Union for two loans in Class 2. Without a proper valuation, the plan is not feasible. [11 U.S.C. § 1325(a)(6)].

Doc. #26.

On January 25, 2024, Debtor filed an Amended Schedule I which appears to resolve the first objection. Doc. #31. On that same day, Debtor filed two *Motions to Value Collateral* which purported to resolve the second objection. Docs. ##33,37. However, the court has denied both of those motions for procedural reasons. *See Items ##2 and 3, below.*

This objection will be CONTINUED to March 13, 2023, at 9:30 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or the Trustee's objection to confirmation is withdrawn, the Debtors 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 Trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Trustee shall file and serve a reply, if any, by **7 days before the hearing**.

If the Debtors elect 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 Debtors do 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.

2. [23-12700](#)-B-13     **IN RE: ANTHONY/ALLYSON DETLEFSEN**  
[RLG-1](#)

MOTION TO VALUE COLLATERAL OF PENTAGON FEDERAL CREDIT UNION  
1-25-2024    [\[33\]](#)

ALLYSON DETLEFSEN/MV  
STEVEN ALPERT/ATTY. FOR DBT.

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

DISPOSITION:                    Denied without prejudice.

ORDER:                            The court will issue an order.

Anthony and Allyson Detlefsen ("Debtors") bring this *Motion to Value Collateral*. Doc. #33. For the reasons outlined below, this motion will be DENIED WITHOUT PREJUDICE for failure to comply with Federal Rules of Bankruptcy Procedure ("the Rules").

Rule 3012(b) provides that a request to determine the amount of a secured claim may be made by motion, in a claim objection, or in a plan filed in a chapter 13 case. When the request is made in a chapter 13 plan, the plan must be served in the manner provided in Rule 7004.

Rule 3012(b) is silent as to whether a determination of value by motion or claim objection requires Rule 7004 service. However, Rule 9014(b) requires contested matters to be served upon the parties against whom relief is being sought pursuant to Rule 7004.

"Valuations pursuant to 11 U.S.C. § 506(a) and [Rule] 3012 are contested matters and do not require the filing of an adversary proceeding." *In re Well*, 2009 Bankr. LEXIS 5679 at \*4 (Cal. E.D. Bankr. May 7, 2009); *see also In re Johnson*, 2020 Bankr. LEXIS 1730 at \*1 (Bankr. D.D.C. July 2, 2020) (denying motion to value a motor vehicle because the debtor did not affect proper service under Rule 7004, which is required under Rule 9014); *In re Kelley*, 2020 Bankr. LEXIS 1276 at \*\*1-2 (Bankr. D.D.C. May 11, 2020) (reasoning that a motion to redeem a vehicle under § 722, which implicated § 506(a)(2) to the extent the vehicle was secured, initiated a contested matter requiring Rule 7004 service). On this basis, Creditor must be served in accordance with Rule 7004 regardless of whether the valuation occurs by motion or by the chapter 13 plan.

Pentagon Federal Credit Union ("Creditor") is a corporation. Service on corporations is governed by Rule 7004(b)(3) and can be accomplished by mailing a copy of the pleadings 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, and if required by statute, by also mailing a copy to the defendant. Pursuant to the recently added Rule 7004(i), it is no longer necessary to identify the relevant officer of a corporation or federally insured bank by name, but corporate officers must be served by the name of their position. Fed. R. Bankr. P. 7004(i).

Here, however, the Certificate of Service which accompanied the filing states that Creditor was served at a post office box and with the subheading "Attn: Bankruptcy," which is plainly inadequate. Doc. #36. Accordingly, this motion will be DENIED WITHOUT PREJUDICE because Creditor was not properly served in accordance with Rule 7004.

3. [23-12700](#)-B-13     **IN RE: ANTHONY/ALLYSON DETLEFSEN**  
[RLG-2](#)

MOTION TO VALUE COLLATERAL OF PENTAGON FEDERAL CREDIT UNION  
1-25-2024    [\[37\]](#)

ALLYSON DETLEFSEN/MV  
STEVEN ALPERT/ATTY. FOR DBT.

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

DISPOSITION:                Denied without prejudice.

ORDER:                        The court will issue an order.

Anthony and Allyson Detlefsen ("Debtors") bring this *Motion to Value Collateral*. Doc. #37. For the reasons outlined below, this motion will be DENIED WITHOUT PREJUDICE for failure to comply with Federal Rules of Bankruptcy Procedure ("the Rules").

Rule 3012(b) provides that a request to determine the amount of a secured claim may be made by motion, in a claim objection, or in a plan filed in a chapter 13 case. When the request is made in a chapter 13 plan, the plan must be served in the manner provided in Rule 7004.

Rule 3012(b) is silent as to whether a determination of value by motion or claim objection requires Rule 7004 service. However, Rule 9014(b) requires contested matters to be served upon the parties against whom relief is being sought pursuant to Rule 7004. "Valuations pursuant to 11 U.S.C. § 506(a) and [Rule] 3012 are contested matters and do not require the filing of an adversary proceeding." *In re Well*, 2009 Bankr. LEXIS 5679 at \*4 (Cal. E.D. Bankr. May 7, 2009); see also *In re Johnson*, 2020 Bankr. LEXIS 1730 at \*1 (Bankr. D.D.C. July 2, 2020) (denying motion to value a motor vehicle because the debtor did not affect proper service under Rule 7004, which is required under Rule 9014); *In re Kelley*, 2020 Bankr. LEXIS 1276 at \*\*1-2 (Bankr. D.D.C. May 11, 2020) (reasoning that a motion to redeem a vehicle under § 722, which implicated § 506(a)(2) to the extent the vehicle was secured, initiated a contested matter requiring Rule 7004 service). On this basis, Creditor must be served in accordance with Rule 7004 regardless of whether the valuation occurs by motion or by the chapter 13 plan.

Pentagon Federal Credit Union ("Creditor") is a corporation. Service on corporations is governed by Rule 7004(b)(3) and can be accomplished by mailing a copy of the pleadings 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, and if required by statute, by also mailing a copy to the defendant. Pursuant to the recently added Rule 7004(i), it is no longer necessary to identify the relevant officer of a corporation or federally insured bank by name, but corporate officers must be served by the name of their position. Fed. R. Bankr. P. 7004(i).

Here, however, the Certificate of Service which accompanied the filing states that Creditor was served at a post office box and with the subheading "Attn: Bankruptcy," which is plainly inadequate. Doc. #40. Accordingly, this motion will be DENIED WITHOUT PREJUDICE because Creditor was not properly served in accordance with Rule 7004.

4. [19-10708](#)-B-13     **IN RE: ANTONIO/MARTHA AVILES**  
[MHM-2](#)

CONTINUED MOTION TO RECONVERT CASE FROM CHAPTER 13 TO  
CHAPTER 7  
11-17-2023    [[115](#)]

T. O'TOOLE/ATTY. FOR DBT.

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

DISPOSITION:                    Continued to April 10, 2024, at 9:30 a.m.

ORDER:                            The court will prepare the order.

On February 5, 2024, the parties submitted a *Stipulation* requesting that hearing on this motion be continued to April 10, 2024, at 9:30 a.m., as "Debtors believe that the underlying 9th Circuit BAP appeal would be resolved through either voluntary dismissal or Debtors obtaining a loan to pay off their Chapter 13 case." Doc. #194. Accordingly, this matter is CONTINUED to April 10, 2024, at 9:30.

5. [23-12715](#)-B-13     **IN RE: VICTOR ISLAS-ZAVALA AND LORENA GONZALEZ**  
[DVW-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK NATIONAL ASSOCIATION, TRUSTEE FOR TRUMAN 2016 SC6 TITLE TRUST  
1-17-2024    [\[24\]](#)

U.S. BANK NATIONAL ASSOCIATION, TRUSTEE FOR  
TIMOTHY SPRINGER/ATTY. FOR DBT.  
DIANE WEIFENBACH/ATTY. FOR MV.

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

DISPOSITION:                    Overruled as moot.

ORDER:                            The court will issue an order.

On February 7, 2024, Victor Islas-Zavala and Lorena Gonzalez ("Debtors") filed their *First Amended Chapter 13 Plan*. Doc. #31. The amended plan appears to resolve the issues raised in the instant objection. Accordingly, this *Objection* is hereby OVERRULED AS MOOT.

6. [23-12623](#)-B-13     **IN RE: ERICKA GUTIERREZ GONZALEZ**  
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG  
1-23-2024    [\[24\]](#)

MARK ZIMMERMAN/ATTY. FOR DBT.

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

DISPOSITION:                    Continued to March 13, 2024, at 9:30 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 Ericka Gutierrez Gonzales ("Debtors") on November 28, 2023, under 11 U.S.C. § 1325(b)(1)(B) on the following basis:

1. The plan as proposed will take 60.23 months to fund, and the plan payment must be increased to \$896.46 per month to complete within 60 months. (11 U.S.C. § 1322(d)).
2. The plan does not propose treatment for creditor Suttle & Hammer, APC.

Doc. #24. On February 9, 2024, Debtors filed a Response to this Objection. Doc. #29. However, upon review, the court finds that this Response does not adequately address all the issues raised in the Objection.

This objection will be CONTINUED to March 13, 2024, at 9:30 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or the Trustee's objection to confirmation is withdrawn, the Debtors 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 Trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Trustee shall file and serve a reply, if any, by **7 days before the hearing**.

If the Debtors elect 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 Debtors do 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.

7. [23-12624](#)-B-13     **IN RE: NICASIO/DORINA SARABIA**  
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG  
1-23-2024    [\[30\]](#)

MARK ZIMMERMAN/ATTY. FOR DBT.

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

DISPOSITION:                    Withdrawn.

NO ORDER IS REQUIRED.

On February 2, 2024, the Chapter 13 Trustee withdrew her objection to confirmation. Doc. #35. Accordingly, this *Objection to Confirmation* is WITHDRAWN.

8. [23-12840](#)-B-13     **IN RE: EDGARDO/MARYLOU EGUIA**  
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG  
1-25-2024    [\[21\]](#)

BENNY BARCO/ATTY. FOR DBT.  
WITHDRAWN

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

DISPOSITION:                    Withdrawn.

NO ORDER IS REQUIRED.

On January 29, 2024, the Chapter 13 Trustee withdrew her objection to confirmation. Doc. #25. Accordingly, this *Objection to Confirmation* is WITHDRAWN.



9. [23-12347](#)-B-13     **IN RE: NANCY/STEVE WILLIAMS**  
[MHM-4](#)

CONTINUED OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS  
12-22-2023    [\[40\]](#)

MICHAEL MEYER/MV  
SUSAN SILVEIRA/ATTY. FOR DBT.

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

DISPOSITION:                    Denied as moot.

ORDER:                            The court will prepare the order.

On February 8, 2024, Nancy and Steve Williams ("Debtors") filed an *Ex Parte Motion to Dismiss Pursuant to 11 U.S.C. §1307(b)*. Doc. #59. The motion was accompanied by a *Declaration* executed by both Debtors averring that this case has not been previously converted under 11 U.S.C. § 706, § 1112, or 1208; that Debtors have not filed any previous bankruptcy cases in the last eight years; that there are no pending motions for relief in this case; and that Debtors have not made any arrangements with creditors in connection with the request for dismissal. Doc. #60.

In light of Debtors' voluntary dismissal, this motion will be DENIED as moot.

10. [22-11962](#)-B-13     **IN RE: JUAN FIGUEROA**  
[CJC-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR  
MOTION FOR ADEQUATE PROTECTION  
12-20-2023    [\[69\]](#)

FAY SERVICING, LLC/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
CAREN CASTLE/ATTY. FOR MV.

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

DISPOSITION:                    Removed from calendar.

No order is required.

On February 5, 2024, Fay Servicing, LLC ("Movant") and Juan Gabriel Figueroa ("Debtor") filed a *Stipulation* resolving this matter. Accordingly, this matter will be withdrawn from the calendar.

11. [23-11268](#)-B-13     **IN RE: MELISSA JOHNSON**  
[DAB-3](#)

CONTINUED MOTION TO CONFIRM PLAN  
11-21-2023    [\[48\]](#)

MELISSA JOHNSON/MV  
DAVID BOONE/ATTY. FOR DBT.

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

DISPOSITION:        Denied without prejudice.

ORDER:                The court will issue an order.

This motion was originally set for hearing on January 10, 2024. Doc. #62. Elisa Johnson ("Debtor") moved for an order confirming the *Second Modified Chapter 13 Plan* dated November 21, 2023. Doc. #50.

The Chapter 13 Trustee ("Trustee") timely objected to confirmation of the plan under 11 U.S.C. §§ 1325(a)(1) and (a)(6) and §§ 1322(a) and (d) because:

1. The plan erroneously lists creditor Technology Credit Union as a Class 4 creditor when it should properly be a Class 2 creditor;
2. The plan improperly reclassifies creditor LoanCare LLC from Class 4 to Class 1. The plan payments are short by \$2,151.84 per month for months 1-5 and by \$1.84 per month beginning in month 6. Debtor has not yet provided a Class 1 Checklist to the Trustee;
3. The plan takes more than 60 months to fund; and
4. The plan is not feasible as it calls for payments of \$2,300.00 per month beginning in month 6 when Schedule J reflects that Debtor's net monthly income is only \$150.04.

Doc. #50.

The court continued this motion to February 14, 2024. Doc. #63 Debtor was directed to file and serve a written response to Trustee's objection not later than fourteen (14) days before the hearing date, or file a confirmable, modified plan in lieu of a response not later than seven (7) days before the hearing date, or the objection would be sustained and the motion denied on the grounds stated in the objections without further hearing. *Id.*

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.

12. [23-12271](#)-B-13     **IN RE: RODNEY TIMMONS**  
[LGT-1](#)

MOTION TO DISMISS CASE  
1-9-2024    [\[61\]](#)

LILIAN TSANG/MV  
ADELE SCHNEIDEREIT/ATTY. FOR DBT.  
RESPONSIVE PLEADING

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

DISPOSITION:     Continued to March 13, 2024, at 9:30 a.m.

ORDER:             The court will issue an order.

On January 9, 2024, the Chapter 13 Trustee ("Trustee") filed this *Motion to Dismiss Case* for failure to make plan payments. Doc. #61. *Untimely Opposition* was filed on February 1, 2024. Doc. #61. On December 19, 2023, Rodney Timmons ("Debtor") filed his *First Modified Plan* which, inter alia, proposes to cure the deficiency by increasing Debtor's payments from \$258.00 to \$806.00 beginning in February 2024. Doc. #38. The *First Modified Plan* was accompanied by a motion to confirm same which is set for hearing on March 13, 2024. Docs. ##71, 72.

Accordingly, the instant motion to dismiss is CONTINUED to March 13, 2024, at 9:30 a.m. to be heard in conjunction with Debtor's *Motion to Confirm First Amended Plan*.

13. [23-12278](#)-B-13     **IN RE: MATTHEW QUALLS**  
[CAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-26-2023    [\[45\]](#)

FINANCIAL SERVICES VEHICLE  
TRUST/MV  
SUSAN SILVEIRA/ATTY. FOR DBT.  
CHERYL SKIGIN/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.

Financial Services Vehicle Trust ("Movant") seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2022 BMW M5 Sedan 4D, (VIN: WBS83CH00NCL05514) ("Vehicle"). Doc. #45. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. 4001(a)(3). *Id.*

Matthew Quals ("Debtor") did not file opposition. The Vehicle was repossessed by Movant on September 28, 2023. Doc. #48. 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 has missed three pre-petition payments totaling \$6,894.99 and two post-petition payment in the amount of \$4,596.66. Doc. #46. Additionally, Movant recovered possession of the Vehicle pre-petition on September 28, 2023. Doc. #48. Since the Vehicle has been recovered, the only issue is disposition of the collateral.

Accordingly, the motion will be granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) 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 has failed to make at least three pre-petition payments and two post-petition payments to Movant and the Vehicle is a depreciating asset.

14. [23-12478](#)-B-13     **IN RE: ZACARE BURRIS AND AMY RABAGO-BURRIS**  
[SLL-1](#)

MOTION TO CONFIRM PLAN  
1-2-2024    [\[22\]](#)

AMY RABAGO-BURRIS/MV  
STEPHEN LABIAK/ATTY. FOR DBT.  
PLAN WITHDRAWN,

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

DISPOSITION:     Denied as moot.

ORDER:             The court will issue an order.

On February 1, 2024, Zacare Burris and Amy Rabago-Burris ("Debtors") filed their *Second Modified Chapter 13 Plan* and their motion to confirm same. Docs. ##41, 43. Accordingly, this *Motion to Confirm Debtor's First Amended Plan* is DENIED AS MOOT, and the Trustee's *Objections* to that plan are OVERRULED.

15. [23-12585](#)-B-13     **IN RE: RONALD BARHAM**  
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG  
1-25-2024    [\[20\]](#)

JONATHAN DOAN/ATTY. FOR DBT.

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

DISPOSITION:     Continued to March 13, 2024, at 9:30 a.m.

ORDER:             The court will issue an order.

Lilian G. Tsang ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Ronald Barham ("Debtor") on December 6, 2023) on the following basis:

1. Schedule I must be amended to disclosure the increased contribution from Debtor's fiancé and to remove Social Security income no longer received. **(11 U.S.C. § 1322(a)).**
2. Debtor's Schedules A/B, Schedule I, Statement of Financial Affairs, and proposed plan contain errors and omissions which must be corrected. **(11 U.S.C. § 1325(a)(1)).**
3. Debtor's plan is not feasible because Debtor is not complying with requirements that he maintain insurance on his 2021 Mercedes A35. Also, the plan is not feasible because Debtor proposes to pay \$5,400.44 per month while the monthly payments the plan proposes, with Trustee compensation, will total \$7,956.44 per month. **(11 U.S.C. § 1325(a)(9)).**

Doc. #20.

On February 9, 2024, Debtors filed a Response to this Objection. Doc. #25. However, upon review, the court finds that this Response does not adequately address all the issues raised in the Objection.

This objection will be CONTINUED to March 13, 2024, at 9:30 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or the Trustee's objection to confirmation is withdrawn, the Debtors 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 Trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Trustee shall file and serve a reply, if any, by **7 days before the hearing**. If the Debtors elect 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 Debtors do 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.

11:00 AM

1. [23-12019](#)-B-7     **IN RE: SHAWN VAQUILAR**  
[23-1054](#)     [CAE-1](#)

STATUS CONFERENCE RE: COMPLAINT  
12-18-2023     [[1](#)]

JONES V. VAQUILAR  
JUSTIN VECCHIARELLI/ATTY. FOR PL.  
RESPONSIVE PLEADING

NO RULING.

2. [23-11332](#)-B-11     **IN RE: TWILIGHT HAVEN, A CALIFORNIA**  
NON-PROFIT CORPORATION  
[23-1042](#)     [WJH-1](#)

MOTION FOR ENTRY OF DEFAULT JUDGMENT  
1-17-2024     [[33](#)]

TWILIGHT HAVEN, A CALIFORNIA  
NON-PROFIT CORPORATIO V. FUDGE  
RILEY WALTER/ATTY. FOR MV.

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

DISPOSITION:                     Granted.

ORDER:                             Movant to prepare a conforming order and judgment.

Twilight Haven, a California non-profit corporation ("Debtor" or "Plaintiff") seeks entry of a default judgment against Pacific Gas and Electric Company ("PG&E"). Doc. #33. Defendant did not oppose.

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.

The complaint in this adversary was filed on October 12, 2023. Doc. #1. Plaintiff did not serve the summons and complaint on PG&E until November 3, 2023. Doc. #9. The complaint and summons were accompanied by (1) a notice of status conference, (2) a notice of availability of the bankruptcy resolution program, and (3) an order to confer on initial disclosures and setting deadlines. *Id.*

PG&E did not file an answer, and so Plaintiff entered a Request for Entry of Default as to PG&E on December 12, 2024, and served the request on PG&E that same day. Doc. #22. The court entered PG&E's default on December 18, 2023, under Civ. Rule 55(a) and directed Plaintiff to apply for a default judgment and set this "prove up" hearing within 30 days of entry of default. Doc. #28. Plaintiff applied for entry of a default judgment on January 17, 2024, and served this motion and a notice of the hearing date, along with accompanying exhibits to the Defendant that same day. Doc. #36. PG&E did not respond.

#### JURISDICTION

The United States District Court for the Eastern District of California has jurisdiction over this adversary proceeding under 28 U.S.C. § 1334(b) because this is a case arising under title 11. This court has jurisdiction to hear and determine this matter by reference from the District Court under 28 U.S.C. § 157(a). This is a "core" proceeding under 28 U.S.C. § 157(b)(2)(I) (determinations as to the dischargeability of particular debts). Venue is proper pursuant to 28 U.S.C. § 1409(a) because this adversary proceeding arises in a bankruptcy case pending in this judicial district.

#### BACKGROUND

Debtor filed chapter 11 bankruptcy on June 22, 2023, Case No. 23-11332 (Bankr. E.D. Cal.) ("the Chapter 11 case"). Debtor/Plaintiff later initiated this adversary proceeding on October 12, 2023, seeking a declaratory judgment that Defendant has satisfied its obligations to three Creditor-Defendants whose claims are purportedly secured by certain properties owned by Defendant, specifically the real property bearing APNs 473-020-44 and 473-020-45 ("the Property"). Doc. #1.

Relevant to the disposition of this motion, on or about December 15, 1981, Defendant executed a Financing Agreement in favor of PG&E and secured by a lien on the Property to evidence Defendant's obligation in a principal sum of \$13,446.00. *Id.* The gravamen of this action for declaratory judgment as it applies to PG&E arises from Count III of the adversary complaint, wherein Plaintiff alleges that it has satisfied its obligations to PG&E under financing agreement. *Id.* Accordingly, the financing agreement should be considered voided, and PG&E has no interest in the Property. *Id.* Defendant asks this court for a declaratory judgment to that effect. *Id.*



## DISCUSSION

### I.

Civ. Rule 55, as incorporated by Rule 7055, governs default judgments. "To obtain a default judgment ... a two-step process is required: (1) entry of the party's default (normally by the clerk), and (2) entry of default judgment." *In re McGee*, 359 B.R. 764, 770 (B.A.P. 9th Cir. 2006), citing *Brooks v. United States*, 29 F.Supp 2d 613, 618 (N.D. Cal. 1998), *aff'd mem.*, 162 F.3d 1167 (9th Cir. 1998). "[A] default establishes the well-pleaded allegations of a complaint unless they are . . . contrary to facts judicially noticed or to uncontroverted material in the file." *Anderson v. Air West Inc. (In re Consol. Pretrial Proceedings in Air West Secs. Litig.)*, 436 F.Supp 1281, 1285-86 (N.D. Cal. 1977), citing *Thomson v. Wooster*, 114 U.S. 104, 114 (1885). Thus, a default judgment based solely on the pleadings may only be granted if the factual allegations are well-pled and only for relief sufficiently asserted in the complaint. *Benny v. Pipes*, 799 F.2d 487, 495 (9th Cir. 1986), *amended on other grounds*, 807 F.2d 1514 (9th Cir. 1987).

The court has broad discretion to require that a plaintiff prove up a case and require the plaintiff to establish the necessary facts to determine whether a valid claim exists supporting relief against the defaulting party. Entry of default does not automatically entitle a plaintiff to a default judgment. *Beltran*, 182 B.R. at 823; *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987) ("Rule 55 gives the court considerable leeway as to what it may require as a prerequisite to entry of a default judgment.").

### II.

In this case, the record before the court is, in fact, devoid of any evidence whatsoever that Plaintiff has fulfilled its financial obligations to PG&E other than assertions to that effect in the complaint. The instant motion is accompanied by a Declaration from Kristine Williams, CEO for the Debtor. Doc. #35. However, this Declaration speaks solely to the fact that PG&E was properly served with the complaint and with the instant motion. *Id.* It does not include any statements under oath attesting to the fact that Plaintiff has completed all payments to PG&E under the Financing Agreement.

Nevertheless, the Complaint does include a short, concise assertion that "it has satisfied the underlying obligation relating to the Financing Agreement[with PG&E] and thus Plaintiff is entitled to an order clearing the title to the subject property including declaring the Financing Agreement to be void." Doc. #1 at ¶39. Defendant failed to respond to the allegations in the complaint, and such failure leads inescapably to Plaintiff's allegations being deemed admitted under Civ. Rule 8(d). *Geddes v. United Fin. Grp.*, 559 F.2d 557, 560 (9th Cir. 1977). Plaintiff affirmatively alleged that PG&E had been paid, and this allegation was not based on information and belief or otherwise conditional. *Id.* Accordingly, a default judgment can be entered against PG&E despite the paucity of admissible evidence in support of Plaintiff's claim.

CONCLUSION

For the foregoing reasons, this motion is GRANTED. A declaratory judgment is hereby entered against PG&E declaring that the Financing Agreement is void, that the underlying obligation owed to PG&E in the amount of \$13,446.00 has been satisfied, and that PG&E has no interest in the Property. It is further ORDERED that the title to the subject property shall be cleared of PG&E's lien.

3. [22-11943](#)-B-7     **IN RE: RAYMOND KRAUSE**  
[23-1017](#)

PRE-TRIAL CONFERENCE RE: COMPLAINT  
2-16-2023    [\[1\]](#)

LABOR COMMISSIONER, STATE OF  
CALIFORNIA V. KRAUSE, III  
FELICIA ESPINOSA/ATTY. FOR PL.

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

DISPOSITION:                    Removed from calendar.

No order is required.

On October 3, 2023, the court entered an Order approving a Stipulation between the parties resolving this adversary. Docs. ##22,24. On October 23, 2024, this adversary proceeding was closed. Accordingly, this pre-trial conference shall be removed from the calendar.