



**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: WEDNESDAY**  
**DATE: FEBRUARY 19, 2025**  
**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 simultaneously: (1) **IN PERSON** at Sacramento Courtroom No. 28, (2) via **ZOOMGOV VIDEO**, (3) via **ZOOMGOV TELEPHONE**, and (4) via **COURTCALL**.

You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business** day prior to the hearing.

Information regarding how to sign up can be found on the **Court Appearances** page of our website at:

<https://www.caeb.uscourts.gov/Calendar/CourtAppearances>

Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by **ZoomGov** may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to the trials or evidentiary hearings, though they may appear in person in most instances.



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

- Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
- Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
- Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

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

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



## PRE-HEARING DISPOSITION INSTRUCTIONS

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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. [23-22000](#)-A-13     **IN RE: JEFFERSON/KRISTINE AGUIRRE**  
[DPC-1](#)

AMENDED MOTION TO DISMISS CASE  
1-17-2025    [\[50\]](#)

THOMAS AMBERG/ATTY. FOR DBT.  
RESPONSIVE PLEADING

### **Final Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Withdrawn

**Order:** Civil minute order

**Opposition Due:** February 5, 2025

**Opposition Filed:** February 3, 2025 - timely

**Cause:** 11 U.S.C. § 1307(c)(6) - Plan Delinquency

**Best Interests of Creditors/Estate:** Convert to Chapter 7

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(6) as the debtor has failed to make all payments due under the confirmed plan. The trustee contends that the plan payments are delinquent in the amount of \$6,924, with one payment(s) of \$3,628 due before the hearing on this motion.

### **LBR 9014-1(f)(1)(B)**

*Opposition.* Opposition, if any, to the granting of the motion shall be in writing and shall be served and filed with the Court by the responding party at least fourteen (14) days preceding the date or continued date of the hearing. *Opposition shall be accompanied by evidence establishing its factual allegations.* Without good cause, no party shall be heard in opposition to a motion at oral argument if written opposition to the motion has not been timely filed. Failure of the responding party to timely file written opposition may be deemed a waiver of any opposition to the granting of the motion or may result in the imposition of sanctions.

LBR 9014-1(f)(1)(B) (emphasis added).

The debtor filed opposition in response to the motion. The opposition consists of an unsworn statement by debtor's counsel indicating that payments were tendered to the Chapter 13 trustee.

The opposition does not comply with LBR 9014-1(f)(1)(B). A declaration is required to prove the contentions in the opposition and to provide additional relevant information. For example, there is no evidence indicating that the debtors delivered the payment to the chapter 13 trustee or the method of delivery. Neither is there evidence that the debtor will make additional plan payments.



The court gives no weight to an opposition which fails to provide sworn testimony by the party opposing the motion. Unsworn statements by counsel are not evidence and will not be considered.

#### **TRUSTEE REPLY – Fed. R. Civ. P. 41**

The trustee filed a timely request to dismiss his motion under Fed. R. Civ. P. 41; Fed. R. Bankr. P. 9014, 7041.

Federal Rule of Civil Procedure 41 governs the circumstances where a party may withdraw a motion or objection. Fed. R. Civ. P. 41, *incorporated by* Fed. R. Bankr. P. 7041, 9014(c) (applying rule dismissal of adversary proceedings to contested matters). A motion or objection may be withdrawn without a court order only if it has not been opposed or by stipulation "signed by all parties who have appeared." Fed. R. Civ. P. 41(a)(1)(A). In all other instances, a motion or objection may be withdrawn "only by court order, on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2).

Here, the Chapter 13 trustee has signaled his abandonment of his motion to dismiss. Neither the debtor(s), nor any creditor, has expressed opposition to the withdrawal of the trustee's motion. No unfair prejudice will result from withdrawal of the motion and the court will accede to the trustee's request.

#### **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 motion to dismiss is withdrawn.



2. [23-23300](#)-A-13     **IN RE: ANDREW/JENNETTE FRAZIER**  
[DPC-1](#)

MOTION TO DISMISS CASE  
1-15-2025    [\[38\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

### **Final Ruling**

**Motion:** Dismiss Case

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

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

**Order:** Civil minute order

**Opposition Due:** February 5, 2025

**Opposition Filed:** February 4, 2025 - timely

**Motion to Modify Plan Filed:** February 4, 2025 - 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 March 25, 2025, at 9:00 a.m. The court will continue the hearing on this motion to dismiss to coincide with the hearing on the plan modification. If the modification is disapproved, and the motion to dismiss has not been withdrawn or otherwise resolved, the court may dismiss the case at the continued hearing.

### **CIVIL MINUTE ORDER**

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

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

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

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



3. [24-20501](#)-A-13     **IN RE: JUAN MARTINEZ**  
[DPC-2](#)

MOTION TO DISMISS CASE  
1-17-2025    [\[34\]](#)

SCOTT JOHNSON/ATTY. FOR DBT.  
RESPONSIVE PLEADING

### **Final Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Withdrawn

**Order:** Civil minute order

**Opposition Due:** February 5, 2025

**Opposition Filed:** February 3, 2025 - timely

**Cause:** 11 U.S.C. § 1307(c)(6) - Plan Delinquency

**Best Interests of Creditors/Estate:** Dismiss

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(6) as the debtor has failed to make all payments due under the confirmed plan. The trustee contends that the plan payments are delinquent in the amount of \$700, with one payment(s) of \$700 due before the hearing on this motion.

The debtor has filed a timely opposition which is accompanied by the Declaration of the Debtor's Attorney, ECF Nos. 38-39. The debtor's declaration states that the debtor is current as of February 3, 2025. See Declaration, ECF No. 39. However, the Declaration is sworn testimony by the debtor's attorney.

The opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency. The court is unable to deny the motion given the outstanding delinquency.

### **TRUSTEE REPLY – Fed. R. Civ. P. 41**

The trustee filed a timely request to dismiss his motion under Fed. R. Civ. P. 41; Fed. R. Bankr. P. 9014, 7041.

Federal Rule of Civil Procedure 41 governs the circumstances where a party may withdraw a motion or objection. Fed. R. Civ. P. 41, *incorporated by* Fed. R. Bankr. P. 7041, 9014(c) (applying rule dismissal of adversary proceedings to contested matters). A motion or objection may be withdrawn without a court order only if it has not been opposed or by stipulation "signed by all parties who have appeared." Fed. R. Civ. P. 41(a)(1)(A). In all other instances, a motion or objection may be withdrawn "only by court order, on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2).

Here, the Chapter 13 trustee has signaled his abandonment of his motion to dismiss. Neither the debtor(s), nor any creditor, has



expressed opposition to the withdrawal of the trustee's motion. No unfair prejudice will result from withdrawal of the motion and the court will accede to the trustee's request.

#### **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 motion to dismiss is withdrawn.

4. [24-24802](#)-A-13     **IN RE: ROGELIO/MIREYA GARZA**  
[JCW-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY CREDITOR  
AMERICAN HONDA FINANCE CORPORATION  
12-4-2024    [\[19\]](#)

PETER MACALUSO/ATTY. FOR DBT.  
JENNIFER WONG/ATTY. FOR MV.  
STIPULATION, ECF NO. 32

#### **Final Ruling**

The objection has been resolved by a stipulation which has been approved by the court. Order, ECF No. 32. Accordingly, this matter will be removed from the calendar. No appearances are necessary.

5. [24-23903](#)-A-13     **IN RE: STACI ADAMS**  
[MS-1](#)

MOTION TO CONFIRM PLAN  
1-6-2025    [\[49\]](#)

MICHAEL SALANICK/ATTY. FOR DBT.  
RESPONSIVE PLEADING

#### **No Ruling**



6. [20-21905](#)-A-13     **IN RE: DIANE MORRIS**  
[DPC-5](#)

MOTION TO DISMISS CASE  
1-17-2025    [\[164\]](#)

THOMAS AMBERG/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

7. [21-24114](#)-A-13     **IN RE: TRACY CRUMP**  
[DPC-2](#)

MOTION TO DISMISS CASE  
1-17-2025    [\[37\]](#)

MOHAMMAD MOKARRAM/ATTY. FOR DBT.

**Tentative Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

**Opposition Due:** February 5, 2025

**Opposition Filed:** February 5, 2025 - timely

**Cause:** 11 U.S.C. § 1307(c)(1) - Plan Delinquency

**Best Interests of Creditors/Estate:** Dismiss

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) as the debtor has failed to make all payments due under the plan. The trustee contends that the plan payments are delinquent in the amount of \$900.00, with 1 payment(s) of \$450.00 due prior to the hearing on this motion.

The debtor has filed a timely opposition which is accompanied by the Declaration of the Debtor, ECF Nos. 41, 42. The declaration states that the debtor will bring the plan payment current by the date of the hearing on this motion. See Declaration, ECF No. 42.

The opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency. The court is unable to deny the motion given the outstanding delinquency.

**11 U.S.C. § 1307(c)**

Except as provided in subsection (f) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under



chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including—

...

11 U.S.C. § 1307(c).

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

#### **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 oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the chapter 13 plan in this case. Delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1). The court hereby dismisses this case.

8. [24-21615](#)-A-13     **IN RE: MILTON PEREZ**  
[MET-3](#)

MOTION TO CONFIRM PLAN  
1-6-2025    [\[75\]](#)

MARY TERRANELLA/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 January 6, 2025

#### **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. 79. The plan is supported by Schedules I and J filed January 6, 2025, Amended Schedule I & J, ECF No. 74. The Chapter 13 trustee has filed a non-opposition to the motion, ECF No. 90.

#### **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. [25-20016](#)-A-13     **IN RE: MATTHEW MCCANDLESS**  
[NAR-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
1-29-2025    [\[21\]](#)

PETER MACALUSO/ATTY. FOR DBT.  
NATALI RON/ATTY. FOR MV.  
BRITTNEY CLEVINGER VS.

#### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Denied without prejudice

**Order:** Civil minute order

Movant Brittney Clevenger seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a). The motion will be denied without prejudice as follows.

#### **NON-COMPLIANCE WITH LBR 4001-1**

The movant has not filed and served completed Form EDC 3-468, "Relief from Stay Summary Sheet." But this was required by LBR 4001-1(a)(3).

#### **CIVIL MINUTE ORDER**

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



Movant's Motion for Relief from Automatic Stay 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.

10. [24-24718](#)-A-13     **IN RE: KELLEY MOORE**  
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
1-13-2025    [\[17\]](#)

JULIUS CHERRY/ATTY. FOR DBT.  
SHERYL ITH/ATTY. FOR MV.  
AMERICAN CREDIT ACCEPTANCE VS.  
DEBTOR NON-OPPOSITION

### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2021 Toyota Corolla

**Confirmation Date:** December 27, 2024

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).

America Credit Acceptance seeks an order for relief from the automatic stay of 11 U.S.C. 362(a).

Debtor filed a Statement of Non-Opposition to the motion, ECF No. 25.

### **STAY RELIEF**

The debtor has defaulted on a loan from the moving party secured by the property described above, and postpetition payments are past due. In addition, the confirmed plan provides that the failure to include a secured claim in Class 1, 2, 3, or 4 of the plan may be cause to terminate the automatic stay. The plan does not provide for the moving party's secured claim. Cause exists to grant relief from stay under § 362(d)(1).



The motion will be granted, and the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be waived. No other relief will be awarded.

#### **CIVIL MINUTE ORDER**

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

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

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

IT IS ORDERED that the motion is granted. The automatic stay is vacated with respect to the property described in the motion, commonly known as a 2021 Toyota Corolla, as to all parties in interest. The 14-day stay of the order under Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived. Any party with standing may pursue its rights against the property pursuant to applicable non-bankruptcy law.

IT IS FURTHER ORDERED that no other relief is awarded. To the extent that the motion includes any request for attorney's fees or other costs for bringing this motion, the request is denied.

11. [24-24120](#)-A-7     **IN RE: KRISTINA FLUETSCH**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
1-21-2025    [[108](#)]

CASE CONVERTED: 01/24/25

#### **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.



12. [23-22221](#)-A-13     **IN RE: BRIAN COELHO AND YESENIA AMAYA**  
[DPC-1](#)

MOTION TO DISMISS CASE  
1-17-2025    [\[22\]](#)

STEVEN ALPERT/ATTY. FOR DBT.

### **Final Ruling**

**Motion:** Dismiss Case

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

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

**Order:** Civil minute order

**Opposition Due:** February 5, 2025

**Opposition Filed:** February 5, 2025 - timely

**Motion to Modify Plan Filed:** February 5, 2025 - timely

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(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 March 25, 2025, at 9:00 a.m. The court will continue the hearing on this motion to dismiss to coincide with the hearing on the plan modification. If the modification is disapproved, and the motion to dismiss has not been withdrawn or otherwise resolved, the court may dismiss the case at the continued hearing.

### **CIVIL MINUTE ORDER**

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

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

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

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



13. [24-24823](#)-A-13     **IN RE: PAUL/LAURA SMITH**  
[DPC-1](#)

MOTION TO DISMISS CASE  
1-17-2025    [\[15\]](#)

PATRICIA WILSON/ATTY. FOR DBT.

### **Final Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted - Case Converted to Chapter 7

**Order:** Civil minute order

**Opposition Due:** February 5, 2025

**Opposition Filed:** Unopposed

**Cause:** 11 U.S.C. § 1307(c)(1) - Failure to Confirm Plan

**Best Interests of Creditors/Estate:** Conversion to Chapter 7

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

### **CASE DISMISSAL**

The chapter 13 trustee moves to dismiss this chapter 13 case because the debtor has failed to file a motion to confirm the amended plan. For the reasons stated in the motion, cause exists under § 1307(c)(1) to dismiss the case.

### **11 U.S.C. § 1307(c)**

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

...

11 U.S.C. § 1307(c).

The court finds that conversion to Chapter 7 is in the best interests of the creditors and the estate. This case has not been previously converted from a chapter 7. The trustee states that there are significant non-exempt assets as follows:



According to the Trustee's records, there is \$16,985.00 in non-exempt equity in the assets listed on Schedules A/ B from a Dodge Ram, a Fiat and Firearms.

Declaration of Trina Hayek, 2:3-5, ECF No. 17.

#### **CIVIL MINUTE ORDER**

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

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

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

IT IS ORDERED that the motion is granted because of the failure to confirm an amended chapter 13 plan in this case. The court hereby converts this case to a Chapter 7.

14. [24-24824](#)-A-13     **IN RE: EDWARD ROTTER AND TIFFANY**  
KEETON-FARRIOR  
[DWL-1](#)

MOTION TO CONFIRM PLAN  
12-31-2024    [\[18\]](#)

PATRICIA WILSON/ATTY. FOR DBT.

#### **Final Ruling**

**Motion:** Confirm Chapter 13 Plan

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

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

**Order:** Civil Minute Order

**Subject:** Debtor's First Amended Chapter 13 Plan, filed December 31, 2024

The debtor seeks confirmation of a modified plan. The Chapter 13 trustee has failed to file a response to the motion as required. 11 U.S.C. 1302(b).

The court will continue the hearing to allow the trustee to respond to the motion and to allow the debtor to reply.



## **CIVIL MINUTE ORDER**

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

IT IS ORDERED that the motion is continued to March 25, 2025, at 9:00 a.m. No later than March 4, 2025, the Chapter 13 trustee shall file and serve a response to the motion.

IT IS FURTHER ORDERED that no later than March 18, 2025, the debtor shall file and serve a reply, if any. The evidentiary record will close after March 18, 2025, absent further order of the court.

15. [19-23626](#)-A-7     **IN RE: GRELING CHARLES**  
[DPC-1](#)

MOTION TO DISMISS CASE  
1-15-2025    [\[37\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.  
CASE CONVERTED: 01/30/25

### **Final Ruling**

This matter will be removed from the calendar as moot. This case was converted to a Chapter 7 on January 30, 2025. No appearances are necessary.

16. [24-20027](#)-A-13     **IN RE: RASUL SHEVCHENKO**  
[DPC-3](#)

MOTION TO DISMISS CASE  
1-17-2025    [\[54\]](#)

MARK SHMORGON/ATTY. FOR DBT.  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

**Opposition Due:** February 5, 2025

**Opposition Filed:** February 4, 2025, - timely

**Cause:** 11 U.S.C. § 1307(c)(6) - Plan Delinquency

**Best Interests of Creditors/Estate:** Dismiss

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



the plan payments are delinquent in the amount of \$1,936.00, with 1 payment(s) of \$968.00 due before the hearing on this motion.

The debtor has filed a timely opposition which is accompanied by the Declaration of the Debtor, ECF Nos. 58, 59. The debtor's declaration states that the debtor will bring the plan payment current by the date of the hearing on this motion. See Declaration, ECF No. 59.

The opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency. The court is unable to deny the motion given the outstanding delinquency.

**11 U.S.C. § 1307(c)**

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

...

11 U.S.C. § 1307(c).

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

**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 oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.



17. [24-22629](#)-A-13     **IN RE: RUMMY SANDHU**  
[DPC-2](#)

CONTINUED MOTION TO DISMISS CASE  
12-9-2024    [[81](#)]

PETER MACALUSO/ATTY. FOR DBT.

**No Ruling**

18. [24-22629](#)-A-13     **IN RE: RUMMY SANDHU**  
[PGM-4](#)

MOTION TO CONFIRM PLAN  
1-6-2025    [[87](#)]

PETER MACALUSO/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**No Ruling**

19. [24-25730](#)-A-13     **IN RE: T. ALEXANDER/KAREN DE LEON**  
[DT-1](#)

MOTION TO CONFIRM PLAN  
12-30-2024    [[10](#)]

ANH TRINH/ATTY. FOR DBT.

**Final Ruling**

**Motion:** Motion to Confirm Chapter 13 Plan

**Disposition:** Denied without prejudice

**Order:** Civil minute order

The debtor seeks confirmation of a Chapter 13 plan. The motion will be denied as follows.

**NOTICE**

"The due process requirements for notice are relatively minimal; they merely require notice 'reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.'" *In re 701 Mariposa Project, LLC*, 514 B.R. 10, 15 (B.A.P. 9th Cir. 2014) (citing *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314, 70 S.Ct. 652, 94 L.Ed. 865 (1950)).



B) Notice.

- (i) The notice of hearing shall advise potential respondents whether and when written opposition must be filed, the deadline for filing and serving it, and the names and addresses of the persons who must be served with any opposition.
- (ii) If written opposition is required, the notice of hearing shall advise potential respondents that the failure to file timely written opposition may result in the motion being resolved without oral argument and the striking of untimely written opposition.
- (iii) The notice of hearing shall advise respondents that they can determine whether the matter has been resolved without oral argument or whether the court has issued a tentative ruling, and can view [any] pre-hearing dispositions by checking the Court's website at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov) after 4:00 P.M. the day before the hearing, and that parties appearing telephonically must view the pre-hearing dispositions prior to the hearing.
- (iv) When notice of a motion is served without the motion or supporting papers, the notice of hearing shall also succinctly and sufficiently describe the nature of the relief being requested and set forth the essential facts necessary for a party to determine whether to oppose the motion. However, the motion and supporting papers shall be served on those parties who have requested special notice and those who are directly affected by the requested relief.

LBR 9014-1(B).

The notice of motion in this case fails to comply with LBR 9014-1(B) (i), (ii), (iii).

LBR 9014-1(B) (i) & (ii)

The notice does not specify whether and when written opposition must be filed as required by 9014-1(B) (i) & (ii). The notice states:

PLEASE TAKE FURTHER NOTICE that *any party opposing the Motion may appear personally*, or by counsel at the preliminary hearing and may file responsive pleadings, points and authorities and declarations...

Please take notice that any party in interest is *required to file written opposition*, if any, to the



granting of the motion in writing and shall be served and filed with the Court by the responding party at least fourteen (14) calendar days preceding the date or continued date of the hearing...

Notice of Motion, 2:1-4, 8-11, ECF No. 11 (emphasis added).

The court questions if a reasonable person would understand whether written opposition was required or not. There are conflicting statements in the Notice. For example, the Notice states, "any party may appear personally" and then later states "any party in interest is required to file written opposition". This is conflicting and would likely confuse the reasonable person receiving the notice.

LBR 9014-1(B)(iii)

Additionally, the notice does not provide required information directing the party to the court's pre-hearing dispositions as required by LBR 9014-1(B)(iii). Further, the notice is incorrect regarding which Judge is hearing the case. Both the Honorable Judge Fredrick Clement and the Honorable Judge Ronald Sargis are listed within the notice. Notice of Motion, 1: 18, 23-24. This does not provide responding parties with clear instruction regarding the location of prehearing dispositions as required by LBR 9014-1(B)(iii). Accordingly, the motion will be denied without prejudice.

#### **CIVIL MINUTE ORDER**

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

The debtors' motion 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. [24-22031](#)-A-13     **IN RE: ELIZABETH MALKIN**  
[MRL-2](#)

AMENDED MOTION TO SELL  
1-31-2025    [\[45\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.

### **Final Ruling**

**Motion:** Sell Real Property

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

**Disposition:** Denied without prejudice

**Order:** Civil minute order

The debtor seeks an order authorizing the sale of real property. The motion will be denied as follows.

### **NOTICE**

(a) Twenty-One-Day Notices to Parties in Interest. Except as provided in subdivisions (h), (i), ( l ), (p), and (q) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days' notice by mail of:

...

(2) a proposed use, sale, or lease of property of the estate other than in the ordinary course of business, unless the court for cause shown shortens the time or directs another method of giving notice;

Fed. R. Bankr. P. 2002(a)(2)

However, notice may be limited in this instant case by Local Bankruptcy Rule 2002-3 for the following reasons:

Without further order of the court, the provisions of Fed. R. Bankr. P. 2002(h) are applicable to chapter 7, chapter 12 and chapter 13 cases that otherwise satisfy the provisions of that subdivision. *The Clerk of the Court or any party in interest giving notice required by Fed. R. Bankr. P. 2002(a) may limit such notice to those persons specified in Fed. R. Bankr. P. 2002(h).*

LBR 2002-3(emphasis added).

Here, the court is unable to ascertain which creditors have been given notice.

The debtor filed a Motion to Sell real property located at 7912 Tanana River Court, Citrus Heights, California, on January 29, 2025. Motion to Sell, ECF No. 39. The debtor served the motion and supporting documents on all parties as required on January 29, 2025, Certificate of Service, ECF No. 44.



Subsequently, on January 31, 2025, the debtor filed an Amended Motion to Sell regarding the same real property. Amended Motion to Sell, ECF No. 45. The amended motion is dated January 31, 2025. Accordingly, it could not have been served on January 29, 2025.

The court is unable to determine if the amended motion was served properly on any parties in interest. A certificate of service has not been filed proving that the amended motion was served as required. LBR 9014-1(e).

The motion will be denied without prejudice.

#### **CIVIL MINUTE ORDER**

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

The debtor's Motion to Sell 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.

21. [24-22634](#)-A-13     **IN RE: SUHMER FRYER**  
[PGM-1](#)

MOTION TO CONFIRM PLAN  
1-4-2025    [\[106\]](#)

PETER MACALUSO/ATTY. FOR DBT.

#### **Final Ruling**

**Motion:** Confirm Chapter 13 Plan

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

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

**Order:** Civil minute order

The debtor requests confirmation of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1)-(2). The Chapter 13 trustee opposes the motion, objecting to confirmation. Additionally, on January 27, 2025, the trustee filed an Objection to Debtor's Claim of Exemptions, ECF No. 114.

The court will continue the hearing on this motion to confirm to coincide with the hearing on the objection to the debtor's claim of exemptions. If the objection to debtor's claim of exemptions is sustained, and the motion to confirm has not been withdrawn or otherwise resolved, the court may resolve this matter at the 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 debtor's motion to confirm is continued to March 25, 2025, at 9:00 a.m.

IT IS FURTHER ORDERED that not later than 14 days prior to the continued hearing date the trustee shall file a status report updating the opposition to confirmation. The status report shall provide a concise list explaining the remaining issues regarding the plan confirmation and indicate the amount of any plan delinquency.

22. [24-24235](#)-A-13     **IN RE: GARY/MICHELLE WHITAKER**  
[DPC-1](#)

MOTION TO DISMISS CASE  
1-21-2025    [\[41\]](#)

CATHERINE KING/ATTY. FOR DBT.  
RESPONSIVE PLEADING

### **Final Ruling**

**Motion:** Dismiss Case

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

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

**Order:** Civil minute order

**Opposition Due:** February 5, 2025

**Opposition Filed:** January 27, 2025 - timely

**Motion to Modify Plan Filed:** January 29, 2025 - 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 March 25, 2025, at 9:00 a.m. The court will continue the hearing on this motion to dismiss to coincide with the hearing on the plan modification. If the modification is disapproved, and the motion to dismiss has not been withdrawn or otherwise resolved, the court may dismiss the case at the continued hearing.

## **CIVIL MINUTE ORDER**

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



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

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

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

23. [24-24736](#)-A-13     **IN RE: JOSEPH/RACHELLE FILSTRUP**  
[CRG-1](#)

CONTINUED MOTION TO CONFIRM PLAN  
11-26-2024    [\[17\]](#)

CARL GUSTAFSON/ATTY. FOR DBT.  
RESPONSIVE PLEADING

### **Final Ruling**

The motion has been resolved. The parties submitted an order confirming the plan which was signed by the Chapter 13 trustee. Order Confirming Plan, ECF No. 30. Accordingly, this matter will be removed from the calendar. No appearances are necessary.



24. [23-20838](#)-A-13     **IN RE: PAUL ROCCO**  
[DPC-2](#)

MOTION TO DISMISS CASE  
1-17-2025    [\[116\]](#)

STEPHAN BROWN/ATTY. FOR DBT.  
RESPONSIVE PLEADING

### **Final Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

**Opposition Due:** February 5, 2025

**Opposition Filed:** February 4, 2025, - timely

**Cause:** 11 U.S.C. § 1307(c)(6) - Plan Delinquency

**Best Interests of Creditors/Estate:** Dismiss

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(6) as the debtor has failed to make all payments due under the confirmed plan. The trustee contends that the plan payments are delinquent in the amount of \$2,454.75, with 1 payment(s) of \$2,471.25 due before the hearing on this motion.

The debtor has filed a timely opposition which consists of an unsworn statement by debtor's counsel. The opposition states that the debtor will bring the plan payment current by the date of the hearing on this motion. See Opposition, ECF No. 120.

### **LBR 9014-1(f)(1)(B)**

Opposition. Opposition, if any, to the granting of the motion shall be in writing and shall be served and filed with the Court by the responding party at least fourteen (14) days preceding the date or continued date of the hearing. *Opposition shall be accompanied by evidence establishing its factual allegations.* Without good cause, no party shall be heard in opposition to a motion at oral argument if written opposition to the motion has not been timely filed. Failure of the responding party to timely file written opposition may be deemed a waiver of any opposition to the granting of the motion or may result in the imposition of sanctions.

LBR 9014-1(f)(1)(B) (emphasis added).

The opposition does not comply with LBR 9014-1(f)(1)(B). A declaration is required to prove the contentions in the opposition and to provide additional relevant information. For example, there is no evidence indicating that the debtors delivered the payment to the chapter 13 trustee or the method of delivery. Neither is there evidence that the debtor will make additional plan payments.



The debtor's opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency. The court is unable to deny the motion given the outstanding delinquency.

The court gives no weight to an opposition which fails to provide sworn testimony by the party opposing the motion. Unsworn statements by counsel are not evidence and will not be considered.

The opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency. The court is unable to deny the motion given the outstanding delinquency.

#### **11 U.S.C. § 1307(c)**

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

...

11 U.S.C. § 1307(c).

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

#### **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 oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.



25. [24-21038](#)-A-13     **IN RE: PERFECTO GUADIANA**  
[MOH-4](#)

OBJECTION TO CLAIM OF HSBC BANK USA N.A., CLAIM NUMBER 2  
12-12-2024    [[67](#)]

MICHAEL HAYS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

### **Final Ruling**

**Objection:** Objection to Claim of HSBC Bank USA N.A.

**Disposition:** Overruled without prejudice

**Order:** Civil minute order

The debtor seeks an order sustaining the objection to the claim of HSBC Bank USA N.A.

A claim objection is a contested matter. See Fed. R. Bankr. P. 3007 advisory committee's note. As a contested matter, the objection must be served in the manner provided by Rule 7004. See Fed. R. Bankr. P. 9014(b). Service on corporations must be made "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. See Certificate of Service, ECF No. 71. The motion was not mailed to the attention of an officer, managing or general agent, or other agent authorized to accept service.

### **CIVIL MINUTE ORDER**

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

The debtor's Objection to Claim of HSBC Bank USA N.A 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.



26. [24-21038](#)-A-13     **IN RE: PERFECTO GUADIANA**  
[MOH-5](#)

MOTION TO CONFIRM PLAN  
12-20-2024    [\[72\]](#)

MICHAEL HAYS/ATTY. FOR DBT.

**Final Ruling**

**Motion:** Motion to Confirm Plan

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

**Disposition:** Denied without prejudice

**Order:** Civil minute order

The rule governing notice for a Motion to Confirm Plan states:

(b) Twenty-Eight-Day Notices to Parties in Interest. Except as provided in subdivision ( 1 ) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees not less than 28 days' notice by mail of the time fixed (1) for filing objections and the hearing to consider approval of a disclosure statement or, under §1125(f), to make a final determination whether the plan provides adequate information so that a separate disclosure statement is not necessary; (2) for filing objections and the hearing to consider confirmation of a chapter 9, or chapter 11 plan; and (3) for the hearing to consider confirmation of a chapter 13 plan.

Fed. R. Bankr. P. 2002(b)

The court cannot ascertain whether sufficient notice has been given. On December 20, 2024, the debtor filed a Motion to Confirm a Chapter 13 Plan. Motion to Confirm, ECF No. 72. The debtor did not file a certificate of service evidencing service of the motion and supporting documents on all parties as required. The motion will be denied as follows.

**SERVICE**

A proof of service, in the form of a certificate of service, shall be filed with the Clerk concurrently with the pleadings or documents served, or not more than three (3) days after they are filed.

LBR 9014-1(e)(2).

Because no certificate of service was filed, the court is unable to determine if service complies with Fed. R. Bankr. P. 9013, 9014, LBR 9014-1.

The court will deny the motion without prejudice.



## CIVIL MINUTE ORDER

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

The debtor's Motion to Confirm 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.

27. [25-20043](#)-A-13     **IN RE: MOHAMMAD KHAN**

NOTICE OF INCOMPLETE FILING AND NOTICE OF INTENT TO DISMISS  
CASE IF DOCUMENTS ARE NOT TIMELY FILED  
1-10-2025    [[13](#)]

### Final Ruling

The motion has been resolved. Accordingly, this matter will be removed from the calendar.

28. [24-25544](#)-A-13     **IN RE: MARTIN ZERMENO**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
1-28-2025    [[42](#)]

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 April 15, 2025, at 9:00 a.m.

**Order:** Civil minute order

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

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



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

#### **CIVIL MINUTE ORDER**

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

IT IS ORDERED that the hearing on this objection will be continued to April 15, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than March 11, 2025, the debtor(s) shall do one of the following:

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

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

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

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



29. [24-25544](#)-A-13     **IN RE: MARTIN ZERMENO**  
[KMM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY WILMINGTON TRUST,  
NATIONAL ASSOCIATION  
1-30-2025    [\[47\]](#)

MICHAEL HAYS/ATTY. FOR DBT.  
KIRSTEN MARTINEZ/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 April 15, 2025, at 9:00 a.m.

**Order:** Civil minute order

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

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

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

### **CIVIL MINUTE ORDER**

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

IT IS ORDERED that the hearing on this objection will be continued to April 15, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than March 11, 2025, the debtor(s) shall do one of the following:

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

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



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

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

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

30. [24-23546](#)-A-13     **IN RE: MICHAEL MCGEE**  
[GC-1](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF GLAZER AND  
CHERRY FOR GERALD GLAZER, DEBTORS ATTORNEY(S)  
12-30-2024    [\[26\]](#)

JULIUS CHERRY/ATTY. FOR DBT.  
RESPONSIVE PLEADING

#### **Final Ruling**

Argument on this matter is continued to March 4, 2025, at 9:00 a.m. The record is closed, and no party may file further briefs, evidence, or other documents in support of, or opposition, to the motion. A civil minute order shall issue.

31. [25-20146](#)-A-13     **IN RE: BRUCE IMADA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
1-30-2025    [\[12\]](#)

DEBTOR DISMISSED: 02/03/25

#### **Final Ruling**

The case was dismissed on February 3, 2025, the order to show cause is discharged as moot.



32. [24-24851](#)-A-13     **IN RE: ASIF KHALID AND SOBIA QAMAR**  
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.  
CUSICK  
12-18-2024    [\[18\]](#)

JASMIN NGUYEN/ATTY. FOR DBT.  
RESPONSIVE PLEADING

### **Final Ruling**

The parties have resolved the objection. The court signed the order confirming the plan on February 6, 2025. Accordingly, this matter will be removed from the calendar. No appearances are required.

33. [24-25154](#)-A-13     **IN RE: GREGORY/KASHONDA LAWSON**  
[KMM-1](#)

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

MOHAMMAD MOKARRAM/ATTY. FOR DBT.  
KIRSTEN MARTINEZ/ATTY. FOR MV.  
TOYOTA MOTOR CREDIT CORPORATION VS.

### **Final Ruling**

**Motion:** Stay Relief

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

**Disposition:** Denied as moot

**Order:** Civil minute order

**Subject:** 2021 BMW X3, Class 3 of Plan

**Plan Confirmed:** January 17, 2025

Toyota Motor Credit Corporation seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a).

### **MOOTNESS OF REQUEST FOR STAY RELIEF**

Federal courts have no authority to decide moot questions. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67-68, 72 (1997). "Mootness has been described as the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness)." *Id.* at 68 n.22 (quoting *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 397 (1980)) (internal quotation marks omitted).

The confirmed chapter 13 plan in this case provides for the movant's claim in Class 3. Class 3 secured claims are "secured claims



satisfied by the surrender of collateral.” Section 3.11(a) of the plan provides: “Upon confirmation of the plan, the automatic stay of 11 U.S.C. § 362(a) and the co-debtor stay of 11 U.S.C. §1301(a) are . . . terminated to allow the holder of a Class 3 secured claim to exercise its rights against its collateral . . . .”

Because the plan has been confirmed, the automatic stay has already been modified to allow the moving party to exercise its rights against its collateral. No effective relief can be awarded. The movant’s personal interest in obtaining relief from the stay no longer exists because the stay no longer affects its collateral. The motion will be denied as moot.

#### **CIVIL MINUTE ORDER**

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

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

Toyota Motor Credit Corporation’s motion for relief from the automatic stay has been presented to the court. Having considered the motion, and having heard oral argument presented at the hearing, if any,

IT IS ORDERED that the motion is denied as moot. No relief will be awarded.

34. [24-24660](#)-A-13     **IN RE: CRAIG PAINTER**  
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID CUSICK  
12-10-2024    [\[22\]](#)

#### **Final Ruling**

**Objection:** Trustee’s Objection to Confirmation of Plan

**Notice:** Continued from January 7, 2025

**Disposition:** Sustained and confirmation denied

**Order:** Civil minute order

The hearing on the trustee’s objection to confirmation was continued to allow the debtor to augment the record and file opposition, if any. The debtor has failed to file any opposition to the objection.

#### **CONFIRMATION**

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation.



*In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

#### Incorrect Form Plan

The trustee objects because the debtor failed to use the Eastern District form Chapter 13 Plan as required. LBR 3015-1. No modified plan has been filed.

The court will sustain the objection and need not reach the remaining issues in the trustee's objection.

#### **CIVIL MINUTE ORDER**

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

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

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

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

35. [24-24660](#)-A-13     **IN RE: CRAIG PAINTER**  
[RAS-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK  
TRUST NATIONAL ASSOCIATION  
12-12-2024    [\[26\]](#)

DAVID COATS/ATTY. FOR MV.

#### **Final Ruling**

**Objection:** Creditor's Objection to Confirmation of Plan

**Notice:** Continued from January 7, 2025

**Disposition:** Overruled as moot

**Order:** Civil minute order

The hearing was continued to allow the parties to augment the evidentiary record. The debtor has failed to file any opposition. The court has sustained the Chapter 13 trustee's objection to confirmation (DPC-1). Accordingly, the creditor's objection is moot.



## **CIVIL MINUTE ORDER**

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

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

U.S. Bank Trust National Association's objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is overruled as moot.

36. [24-25266](#)-A-13      **IN RE: SCOTT WENDORF AND SUZANNE TOLMICH**  
WENDORF  
[FWP-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
1-22-2025    [\[42\]](#)

STEPHAN BROWN/ATTY. FOR DBT.  
THOMAS PHINNEY/ATTY. FOR MV.  
FOOTHILL VILLAGE OAKS, INC. VS.

### **No Ruling**

37. [24-25566](#)-A-13      **IN RE: NIKKETA GREEN**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
1-29-2025    [\[23\]](#)

SCOTT JOHNSON/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 April 15, 2025, at 9:00 a.m.

**Order:** Civil minute order

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

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that



the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

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

#### **CIVIL MINUTE ORDER**

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

IT IS ORDERED that the hearing on this objection will be continued to April 15, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than March 11, 2025, the debtor(s) shall do one of the following:

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

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

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

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



38. [24-25566](#)-A-13     **IN RE: NIKKETA GREEN**  
[SMJ-1](#)

MOTION TO VALUE COLLATERAL OF NAFCO FINANCE  
1-14-2025    [\[17\]](#)

SCOTT JOHNSON/ATTY. FOR DBT.

**Final Ruling**

**Motion:** Motion to Value Collateral of Nafco Finance  
**Notice:** LBR 9014-1(f)(1); written opposition required  
**Disposition:** Denied without prejudice  
**Order:** Civil minute order

**Subject Collateral:** 2012 Audi A7

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

As a contested matter, a motion to value collateral is governed by Federal Rule of Bankruptcy Procedure 9014. Fed. R. Bankr. P. 9014(a), *In re Pereira*, 394 B.R. 501, 506 (Bankr. S.D. Cal. 2008). 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. See Certificate of Service, Attachment 6A-1, ECF No. 21. The motion was not mailed to the attention of an officer, managing or general agent, or other agent authorized to accept service.

**CIVIL MINUTE ORDER**

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

The debtor's 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.



39. [21-23868](#)-A-13     **IN RE: BRANDON/REBECA DOMINGUES HENDERSON**  
[DPC-6](#)

MOTION TO DISMISS CASE  
1-17-2025    [\[165\]](#)

CANDACE BROOKS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

**Opposition Due:** February 5, 2025

**Opposition Filed:** February 4, 2025, - timely

**Cause:** 11 U.S.C. § 1307(c)(6) - Plan Delinquency

**Best Interests of Creditors/Estate:** Dismiss

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(6) as the debtor has failed to make all payments due under the confirmed plan. The trustee contends that the plan payments are delinquent in the amount of \$1,998.00, with 1 payment(s) of \$999.00 due before the hearing on this motion.

The debtor has filed a timely opposition which is accompanied by the Declaration of the Debtor, ECF Nos. 169, 170. The debtor's declaration states that the debtor will bring the plan payment current by the date of the hearing on this motion. See Declaration, ECF No. 170.

The opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency. The court is unable to deny the motion given the outstanding delinquency.

### **11 U.S.C. § 1307(c)**

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

...

11 U.S.C. § 1307(c).

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



## 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 oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

40. [23-21868](#)-A-13     **IN RE: JEREMY NAVA-SALINAS**  
[KMM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
1-3-2025    [\[110\]](#)

MATTHEW METZGER/ATTY. FOR DBT.  
KIRSTEN MARTINEZ/ATTY. FOR MV.  
TOYOTA MOTOR CREDIT CORPORATION VS.  
DEBTOR NON-OPPOSITION

### Final Ruling

**Motion:** Stay Relief

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

**Disposition:** Denied as moot

**Order:** Civil minute order

**Subject:** 2020 Toyota Camry

**Plan Confirmed:** September 20, 2024

Federal courts have no authority to decide moot questions. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67-68, 72 (1997). "Mootness has been described as the doctrine of standing set in a time frame: The requisite personal interest that must exist at the commencement of the litigation (standing) must continue throughout its existence (mootness)." *Id.* at 68 n.22 (quoting *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 397 (1980)) (internal quotation marks omitted).

The confirmed chapter 13 plan in this case provides for the movant's claim in Class 4. See Plan, ECF No. 93. Class 4 secured claims are long-term claims that mature after the completion of the plan's term. They are not modified by the plan, and they are not in default as of the filing of the petition. They are paid directly by the debtor or a third party. Section 3.11(a) of the plan provides:



Upon confirmation of the plan, the automatic stay of 11 U.S.C. § 362(a) and the co-debtor stay of 11 U.S.C. § 1301(a) are . . . modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract . . . .”

Because the plan has been confirmed, the automatic stay has already been modified to allow the moving party to exercise its rights against its collateral. No effective relief can be awarded. The movant’s personal interest in obtaining relief from the stay no longer exists because the stay no longer affects its collateral. The motion will be denied as moot.

#### **CIVIL MINUTE ORDER**

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

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

Toyota Motor Credit Corporation’s motion for relief from the automatic stay has been presented to the court. Having considered the motion, and having heard oral argument presented at the hearing, if any,

IT IS ORDERED that the motion is denied as moot. No relief will be awarded.

41. [24-25569](#)-A-13     **IN RE: KATHLEEN TINSMAN**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
1-29-2025    [[16](#)]

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 April 15, 2025, at 9:00 a.m.

**Order:** Civil minute order

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

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation.



*In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

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

#### **CIVIL MINUTE ORDER**

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

IT IS ORDERED that the hearing on this objection will be continued to April 15, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than March 11, 2025, the debtor(s) shall do one of the following:

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

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

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

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



42. [22-23071](#)-A-13     **IN RE: DOUGLAS/PHATHUMPORN OVERSTREET**  
[DPC-5](#)

MOTION TO DISMISS CASE  
1-17-2025    [\[65\]](#)

CANDACE BROOKS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

**Opposition Due:** February 5, 2025

**Opposition Filed:** February 3, 2025 - timely

**Cause:** 11 U.S.C. § 1307(c)(6) - Plan Delinquency

**Best Interests of Creditors/Estate:** Dismiss

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(6) as the debtor has failed to make all payments due under the confirmed plan. The trustee contends that the plan payments are delinquent in the amount of \$3,290.61, with 1 payment(s) of \$3,290.81 due before the hearing on this motion.

The debtor has filed a timely opposition which is accompanied by the Declaration of the Debtor, ECF Nos. 69, 70. The debtor's declaration states that the debtor will bring the plan payment current by the date of the hearing on this motion. See Declaration, ECF No. 70.

The opposition does not fully resolve the grounds for dismissal. A delinquency still exists as of the date of the opposition. A statement of intent to pay the delinquency on or before a future date is not equivalent to cure of the delinquency. The court is unable to deny the motion given the outstanding delinquency.

### **11 U.S.C. § 1307(c)**

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

...

11 U.S.C. § 1307(c).

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



## 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 oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

43. [19-27775](#)-A-13     **IN RE: RANKIN LYMAN**  
[DPC-2](#)

MOTION TO DISMISS CASE  
1-17-2025    [[122](#)]

PETER MACALUSO/ATTY. FOR DBT.

### Final Ruling

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

**Opposition Due:** February 5, 2025

**Opposition Filed:** Unopposed

**Cause:** 11 U.S.C. § 1307(c)(6) - Plan Delinquency

**Best Interests of Creditors/Estate:** Dismiss

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

### CASE DISMISSAL

The chapter 13 trustee moves to dismiss this chapter 13 case for delinquency in payments under the confirmed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(6) to dismiss the case. Payments under the confirmed plan are delinquent in the amount of \$2,040.00 with 1 payment(s) of \$735.00 due prior to the hearing on this motion.



**11 U.S.C. § 1307(c)**

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

...

11 U.S.C. § 1307(c).

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

**CIVIL MINUTE ORDER**

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

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

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

IT IS ORDERED that the motion is granted because of the delinquency under the confirmed chapter 13 plan in this case. The court hereby dismisses this case.

44. [24-23678](#)-A-13     **IN RE: ADRIANA GARCIA**  
[EAT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY WELLS FARGO  
BANK, N.A.  
11-22-2024     [\[38\]](#)

JENNIFER REICHHOFF/ATTY. FOR DBT.  
CASSANDRA RICHEY/ATTY. FOR MV.

**No Ruling**



45. [24-25581](#)-A-13     **IN RE: TRINA BRYANT**  
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK  
1-29-2025    [\[21\]](#)

### **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 April 15, 2025, at 9:00 a.m.

**Order:** Civil minute order

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

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

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

### **CIVIL MINUTE ORDER**

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

IT IS ORDERED that the hearing on this objection will be continued to April 15, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than March 11, 2025, the debtor(s) shall do one of the following:

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

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



March 25, 2025. The evidentiary record will close after March 25, 2025; or

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

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

46. [24-25084](#)-A-13     **IN RE: CINDY HOLLEY**  
[DPC-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS  
1-8-2025    [\[26\]](#)

### **Final Ruling**

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

The Chapter 13 trustee objects to the debtor's claim of exemptions. The objection will be overruled as moot for the following reasons.

### **SCHEDULE C AMENDED**

Rule 1009(a) allows a debtor to amend schedules as a matter of course at any time, even after a case has been reopened. See *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 393 (B.A.P. 9th Cir. 2003). This includes the right to amend the list of property claimed as exempt. *Martinson v. Michael (In re Michael)*, 163 F.3d 526, 529 (9th Cir. 1998).

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

On February 5, 2025, the debtor filed an amended Schedule C, rendering the instant objection moot. Amended Schedules, ECF Nos. 46, 47.

### **CIVIL MINUTE ORDER**

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



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

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

IT IS ORDERED that the objection is overruled as moot.

47. [24-25084](#)-A-13     **IN RE: CINDY HOLLEY**  
[DPC-2](#)

MOTION TO DISMISS CASE AND/OR MOTION TO CONVERT CASE FROM  
CHAPTER 13 TO CHAPTER 7  
1-8-2025    [\[30\]](#)

**No Ruling**

48. [23-21485](#)-A-13     **IN RE: JAMES WELLE**  
[DPC-1](#)

MOTION TO DISMISS CASE  
1-17-2025    [\[47\]](#)

ERIC SCHWAB/ATTY. FOR DBT.  
RESPONSIVE PLEADING

**Tentative Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

**Opposition Due:** February 5, 2025

**Opposition Filed:** January 31, 2025, - timely

**Cause:** 11 U.S.C. § 1307(c)(6) - Plan Delinquency

**Best Interests of Creditors/Estate:** Dismiss

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(6) as the debtor has failed to make all payments due under the confirmed plan. The trustee contends that the plan payments are delinquent in the amount of \$2,175.00, with 1 payment(s) of \$2,175.00 due before the hearing on this motion.

The debtor has filed a timely opposition which is accompanied by the Declaration of the Debtor and Exhibits, ECF Nos. 51-53. The debtor's declaration states that the debtor has paid the trustee and is current as of January 31, 2025. See Declaration, ECF No. 53.



The court will hear the matter. The Chapter 13 trustee shall be prepared to apprise the court regarding the status of the plan payments.

**11 U.S.C. § 1307(c)**

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

...

11 U.S.C. § 1307(c).

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

**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 oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

49. [24-24888](#)-A-13     **IN RE: ANGELA BEASLEY**  
[JDS-2](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY  
12-3-2024    [\[13\]](#)

GORDON BONES/ATTY. FOR DBT.  
JACQUELINE SERRAO/ATTY. FOR MV.  
SELENE FINANCE LP VS.

**No Ruling**



50. [24-24591](#)-A-13     **IN RE: NICHOLAS/LINDSAY DEROSA**  
[MJD-1](#)

MOTION TO CONFIRM PLAN  
1-13-2025    [\[22\]](#)

MATTHEW DECAMINADA/ATTY. FOR DBT.  
TRUSTEE NON-OPPOSITION

### **Final Ruling**

**Motion:** Confirm Chapter 13 Plan

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

**Disposition:** Denied without prejudice

**Order:** Civil minute order

The motion requests confirmation of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1)-(2). The Chapter 13 trustee does not oppose the motion to confirm plan. However, signatures were absent on the Amended Schedule I and J filed on January 13, 2025, ECF No. 25.

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

### **SCHEDULES I AND J**

#### Rule 1008

On January 13, 2025, the debtor(s) filed supplemental Schedules I and J in support of the motion and plan, ECF No. 25.

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

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

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

EDC 002-015.



LBR 9004-1(c)

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

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

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

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

The motion will be denied without prejudice.

#### **CIVIL MINUTE ORDER**

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

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

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

IT IS ORDERED that the motion is denied without prejudice. The court denies confirmation of the chapter 13 plan.



51. [21-20993](#)-A-13     **IN RE: LAUREL DUNCAN**  
[DPC-1](#)

MOTION TO DISMISS CASE  
1-17-2025    [\[21\]](#)

JULIUS CHERRY/ATTY. FOR DBT.  
RESPONSIVE PLEADING

### **Tentative Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

**Opposition Due:** February 5, 2025

**Opposition Filed:** February 3, 2025, - timely

**Cause:** 11 U.S.C. § 1307(c)(6) - Plan Delinquency

**Best Interests of Creditors/Estate:** Dismiss

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(6) as the debtor has failed to make all payments due under the confirmed plan. The trustee contends that the plan payments are delinquent in the amount of \$1,000.00, with 1 payment(s) of \$500.00 due before the hearing on this motion.

The debtor has filed a timely opposition which is accompanied by the Declaration of the Debtor and Exhibits, ECF Nos. 25-27. The debtor's declaration states that the debtor has paid the trustee and is current as of February 3, 2025. See Declaration, ECF No. 26. The exhibit supports the declaration. In the future counsel shall state the payments made by date and dollar amount in the declaration as supported by the exhibit.

The court will hear the matter. The Chapter 13 trustee shall be prepared to apprise the court regarding the status of the plan payments.

### **11 U.S.C. § 1307(c)**

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

...

11 U.S.C. § 1307(c).

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



## **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 oral argument at the hearing, if any, and good cause appearing,

IT IS ORDERED that the motion is granted. The debtor has failed to make all payments due under the confirmed chapter 13 plan in this case. Delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

52. [24-24794](#)-A-13      **IN RE: ELIZABETH DUARTE**  
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID CUSICK  
12-16-2024    [\[17\]](#)

PATRICIA WILSON/ATTY. FOR DBT.

### **Tentative Ruling**

**Objection:** Trustee's Objection to Confirmation of Plan

**Notice:** Continued from January 7, 2025

**Disposition:** Sustained and confirmation denied

**Order:** Civil minute order

**Attorney Patricia Wilson is ordered to appear in this matter at 9:00 a.m. on February 19, 2025, in Department A. The appearance may be made in person or by telephone or Zoom.**

The hearing on the Chapter 13 trustee's objection to confirmation was continued from January 7, 2025, to allow the debtor to: (1) file a statement of non-opposition; (2) file opposition to the objection; or (3) file an amended Chapter 13 Plan.

### **DEBTOR FAILED TO RESPOND AS ORDERED**

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



sanctions or attorneys' fees and costs, and other lesser sanctions.

LBR 1001-1(g).

On January 8, 2025, the court ordered:

IT IS ORDERED that the hearing on this objection will be continued to February 19, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

*IT IS FURTHER ORDERED that no later than January 21, 2025, the debtor(s) shall do one of the following:*

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

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

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

Order, ECF No. 22, (emphasis added).

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

The court's ruling required the debtor to file a pleading in this matter by January 21, 2025. The debtor has failed to



file any document which would apprise the court of her position regarding the trustee's objection to confirmation.

Counsel has previously failed to comply with the court's orders in similar circumstances. On February 4, 2025, counsel failed to appear as ordered at the confirmation hearing, or to otherwise comply with the court's order issued in *In re Stephen Darrel Shaidell*, Case No. 24-24467, E.D. Cal. Bankr. (2024). Counsel failed to respond to either the Chapter 13 trustee's objection to confirmation (DPC-1) or the objection by creditor Justin Aldi (RDW-1).

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

#### **CONFIRMATION**

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

#### **PLAN FEASIBILITY**

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

#### Plan Payments Remain Delinquent

The Chapter 13 trustee objected to the plan because payments were not current. On February 4, 2025, the trustee filed a status report augmenting his objection which reports "Debtor paid \$1401 on 1/21/25 and \$1401 on 2/3/25, so Debtor has reduced the delinquency to \$1,259.97". Status Report, ECF No. 27.



Plan Contains Unclear Terms

The trustee objects because:

Debtor's plan, (DN 10, Page 1, §2.02), calls for the Debtor to make a payment other than the monthly payments of \$1,401.00 found in §2.01 consisting of, "Liquidation Value in the Honda Accord", and does not specify the estimated dollar amount to be paid or when the payment is due.

Objection, 2:3-8, ECF No. 17.

Without an estimated payment the trustee is unable to determine the impact of the payment on the plan. This prevents the trustee from analyzing the plan and determining if the plan complies with 11 U.S.C. § 1325(a)(4), (6).

Accordingly, the court will sustain the objection.

**CIVIL MINUTE ORDER**

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

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

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

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



53. [24-24794](#)-A-13     **IN RE: ELIZABETH DUARTE**  
[DPC-2](#)

MOTION TO DISMISS CASE  
1-17-2025    [\[23\]](#)

PATRICIA WILSON/ATTY. FOR DBT.

### **Final Ruling**

**Motion:** Dismiss Case

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

**Disposition:** Granted

**Order:** Civil minute order

**Opposition Due:** February 5, 2025

**Opposition Filed:** Unopposed

**Cause:** 11 U.S.C. § 1307(c)(6) - Plan Delinquency

**Best Interests of Creditors/Estate:** Dismiss

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

### **CASE DISMISSAL**

The chapter 13 trustee moves to dismiss this chapter 13 case for delinquency in payments under the confirmed chapter 13 plan. For the reasons stated in the motion, cause exists under § 1307(c)(6) to dismiss the case. Payments under the confirmed plan are delinquent in the amount of \$2,707.98 with 1 payment(s) of \$1,353.99 due prior to the hearing on this motion.

The Trustee's Status Report states debtor paid \$1,401 on February 3, 2025. Although the delinquency is reduced to \$1,259.97, the debtor is not current as of February 4, 2025.

### **11 U.S.C. § 1307(c)**

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

...



11 U.S.C. § 1307(c).

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

#### **CIVIL MINUTE ORDER**

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

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

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

IT IS ORDERED that the motion is granted because of the delinquency under the confirmed chapter 13 plan in this case. The court hereby dismisses this case.

54. [24-24597](#)-A-13     **IN RE: AYANNA SPIKES**  
[DPC-2](#)

OBJECTION TO DISCHARGE BY DAVID P. CUSICK  
1-21-2025    [\[28\]](#)

PETER MACALUSO/ATTY. FOR DBT.  
RESPONSIVE PLEADING

#### **Final Ruling**

**Motion:** Objection to Discharge

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

**Disposition:** Sustained

**Order:** Civil minute order

**Instant Petition Filed:** October 12, 2024

**Previous Chapter:** (23-21965) Chapter 13 converted to Chapter 7

**Previous Petition Filed:** June 15, 2023

**Previous Discharge:** (23-21965) December 27, 2023

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 chapter 13 trustee has objected to the debtor(s) discharge in this case citing the debtor(s) ineligibility pursuant to 11 U.S.C. §1328(f).



## **OBJECTION TO DISCHARGE - 11 U.S.C. § 1328(f)**

11 U.S.C. § 1328(f)(1)) provides:

Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for in the plan or disallowed under section 502, if the debtor has received a discharge-

- (1) in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter,
- (2) in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order.

The statute has only three elements for the discharge bar to trigger under 1328(f)(1). First, the debtor must have received a prior bankruptcy discharge.

Second, the prior case must have been filed under Chapters 7, 11, or 12.

Third, the case in which the discharge was received must have been filed during the 4- year period preceding the date of the order for relief under this [Chapter 13] chapter. The third element represents a significant change to the Bankruptcy Code, which previously imposed no time limitations for obtaining a discharge in a chapter 13 case filed after issuance of a discharge in a chapter 7 case.

Before BAPCPA, chapter 20 debtors could obtain a chapter 13 discharge after having received a discharge in chapter 7 without restriction. The Bankruptcy Abuse Prevention and Consumer Protection Act ("BAPCPA") enacted in 2005 imposed a restriction by adding § 1328(f), which states that a court cannot grant debtors a discharge in a chapter 13 case filed within four years of the filing of a case wherein a discharge was granted in chapter 7. §1328(f)(1).

*Boukatch v. MidFirst Bank (In re Boukatch)*, 533 B.R. 292, 297 (9th Cir. BAP 2015).

Regarding the circumstances wherein a debtor receives a chapter 7 discharge and then files a subsequent chapter 13 petition the statute is clear, and the court shall not grant a discharge in these circumstances.

Relatively unambiguously, new §1328(f)(1) states mandatorily that the court "shall not" grant a discharge if the debtor received a discharge in a Chapter 7, 11 or 12 case "filed...during the 4-year period preceding the date of the order for relief under this chapter." The counting rule here is clear: the 'order for relief under this chapter' would be the date of filing the current Chapter 13 petition; the four-year period would run from the date of filing of the prior case in which the debtor received a discharge. In other words, the four-year bar to successive



discharges runs from the *filing* of a prior Chapter 7 (11 or 12) case to the *filing* of the current Chapter case."

Keith M. Lunden, *Lunden On Chapter 13*, §152.2 at ¶ 3 (2021).

Because less than 4 years has passed since the filing of debtor(s) previous chapter 7 case on December 27, 2023, debtor is not eligible for a discharge in this chapter 13 case. The court will sustain the trustee's objection to discharge.

#### **CIVIL MINUTE ORDER**

The court finds that the debtor is not entitled to a discharge in this case. The court shall issue a civil minute order that conforms substantially to the following form:

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

The trustee's Objection to Discharge has been presented to the court. Having entered the default of the debtor for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the objection,

IT IS ORDERED that the objection is sustained; and

IT IS FURTHER ORDERED that the clerk shall not enter a discharge in this case.

55. [24-24399](#)-A-13     **IN RE: JESSICA SANCHEZ**  
[DPC-3](#)

AMENDED OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS  
1-15-2025    [\[38\]](#)

KRISTY HERNANDEZ/ATTY. FOR DBT.

#### **Final Ruling**

**Objection:** Objection to Claim of Exemptions

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

**Disposition:** Overruled as moot

**Order:** Civil minute order

The Chapter 13 trustee objects to the debtor's claim of exemptions in the Amended Schedule C, Docket No. 21, contending that the debtor has failed to state the dollar amount claimed exempt in an Alliant Bank checking account. The debtor has claimed the account as exempt under C.C.P. §703.140(b)(5) for 100% of fair market value, up to any applicable statutory limit. California law requires the debtor claim a finite exemption in assets. C.C.P. § 703.140(b)(5) contains limits in the amount of the exemption which may claimed. Without a specific dollar amount the court cannot determine if the asset is exempt.



## **EXEMPTIONS IN BANKRUPTCY**

"The bankruptcy estate consists of all legal and equitable interests of the debtor in property as of the date of the filing of the petition." *Ford v. Konnoff (In re Konnoff)*, 356 B.R. 201 (B.A.P. 9th Cir. 2006) (citing 11 U.S.C. § 541(a)(1)). A debtor may exclude exempt property from property of the estate. 11 U.S.C. § 522(b)(1).

## **AMENDED SCHEDULE C FILED**

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

The trustee filed an amended objection to exemptions on January 14, 2025. Subsequently, the debtor filed an Amended Schedule C on January 16, 2025, ECF No. 41. As such a new 30-day period commences for parties to object to the debtor's new claim of exemptions.

Accordingly, the court will overrule the trustee's objection to exemptions as moot.

## **CIVIL MINUTE ORDER**

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

The Chapter 13 trustee's Objection to the Debtor's Claim of Exemptions has been presented to the court. Having considered the objection together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the objection is overruled as moot.



56. [25-20166](#)-A-13     **IN RE: YONG CHI**  
[JMJ-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
2-5-2025    [\[15\]](#)

MARK WOLFF/ATTY. FOR DBT.  
JEREMY JESSUP/ATTY. FOR MV.  
JOSEPH CERRATO VS.

### **Final Ruling**

**Motion:** Motion for Relief from the Automatic Stay

**Disposition:** Denied without prejudice

**Order:** Civil minute order

Joseph Cerrato seeks an order for relief from the automatic stay of 11 U.S.C. § 362(a). The motion will be denied without prejudice as follows.

### **NOTICE**

"The due process requirements for notice are relatively minimal; they merely require notice 'reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.'" *In re 701 Mariposa Project, LLC*, 514 B.R. 10, 15 (B.A.P. 9th Cir. 2014) (citing *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314, 70 S.Ct. 652, 94 L.Ed. 865 (1950)).

#### B) Notice.

- (v) The notice of hearing shall advise potential respondents whether and when written opposition must be filed, the deadline for filing and serving it, and the names and addresses of the persons who must be served with any opposition.
- (vi) If written opposition is required, the notice of hearing shall advise potential respondents that the failure to file timely written opposition may result in the motion being resolved without oral argument and the striking of untimely written opposition.
- (vii) The notice of hearing shall advise respondents that they can determine whether the matter has been resolved without oral argument or whether the court has issued a tentative ruling, and can view [any] pre-hearing dispositions by checking the Court's website at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov) after 4:00 P.M. the day before the hearing, and that parties appearing telephonically must view the pre-hearing dispositions prior to the hearing.



When notice of a motion is served without the motion or supporting papers, the notice of hearing shall also succinctly and sufficiently describe the nature of the relief being requested and set forth the essential facts necessary for a party to determine whether to oppose the motion. However, the motion and supporting papers shall be served on those parties who have requested special notice and those who are directly affected by the requested relief.

LBR 9014-1(B).

The notice of motion in this case fails to comply with LBR 9014-1(B)(i), (iii). The notice states that the motion is brought pursuant to LBR 9014-1(f)(1), which requires written opposition by the respondent(s). However, the notice also states:

PURSUANT TO LOCAL RULE 9014-1(f)(2), NO PARTY IN INTEREST SHALL BE REQUIRED TO FILE A WRITTEN OPPOSITION TO THIS MOTION. OPPOSITION, IF ANY, SHALL BE PRESENTED AT THE HEARING ON THE MOTION. IF OPPOSITION IS PRESENTED, OR IF THERE IS OTHER GOOD CAUSE, THE COURT MAY CONTINUE THE HEARING TO PERMIT THE FILING OF EVIDENCE AND BRIEFS.

Notice of Motion, 2:10-15; ECF No. 16.

The court will not presume the conclusion reached by any respondent regarding the need to file written opposition as required by LBR 9014-1(f)(1) and the conflicting language contained in the notice. Accordingly, the motion will be denied without prejudice.

#### **SERVICE**

While the certificate of service indicates that the debtor was served with the motion, Attachment 6B-3 does not list the debtor as a party served as required under Fed. R. Bankr. P. 4001, 7004, 9013, 9014. See Certificate of Service, ECF No. 20.

#### **CIVIL MINUTE ORDER**

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

The debtors' motion 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.



57. [22-20309](#)-A-13     **IN RE: FRANK RANDLE**  
[JLK-4](#)

MOTION TO REFINANCE  
2-5-2025    [\[60\]](#)

JAMES KEENAN/ATTY. FOR DBT.

### **Tentative Ruling**

**Motion:** Motion to Refinance Mortgage

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

**Disposition:** Granted

**Order:** Civil minute order

**Subject:** 2674 Crystal Court, West Sacramento, California

**Proposed Mortgage:** 30 year fixed Standard VA Mortgage of  
\$375,000.000 with 5.750% interest rate.

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). No opposition 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 to incur new debt to refinance an existing mortgage loan. The terms of the proposed mortgage would pay off the debtor's current mortgage, liens, and encumbrances. Additionally, the proposed refinance would pay 100% dividend to all creditors, including general unsecured creditors consistent with the Chapter 13 plan. Amended Schedules I and J have been filed indicating that the debtor can afford both the plan payment and the proposed monthly loan payment of principal and interest that would result from obtaining this financing. Amended Schedules I and J, ECF No. 44. The court will grant the motion and approve the debtor's incurring of this new debt.

### **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.

Debtor's Motion to Refinance Mortgage has been presented to the court. Having entered the default of respondent for failure to appear, timely oppose, or otherwise defend in the matter, and having considered the well-pleaded facts of the motion,

IT IS ORDERED that the motion is granted.