

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

Honorable Christopher D. Jaime  
Robert T. Matsui U.S. Courthouse  
501 I Street, Sixth Floor  
Sacramento, California

**PRE-HEARING DISPOSITIONS COVER SHEET**

**DAY: TUESDAY**

**DATE: March 17, 2020**

**CALENDAR: 1:00 P.M. CHAPTER 13**

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

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

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

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

**Orders:** Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within seven (7) days of the final hearing on the matter.

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Christopher D. Jaime  
Bankruptcy Judge  
Sacramento, California

**March 17, 2020 at 1:00 p.m.**

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1. [19-26701](#)-B-13 MICHAEL/TRACY GRAHAM CONTINUED MOTION TO DISMISS  
[DPC](#)-2 Bruce Charles Dwiggins CASE  
2-3-20 [[29](#)]

**No Ruling**

2. [19-21705](#)-B-13 TOBY TOLEN  
[JGD](#)-8 John G. Downing

MOTION TO CONFIRM PLAN  
2-4-20 [[141](#)]

### **Final Ruling**

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtors has provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee. Creditor TWC Corp. filed a non-opposition to the motion. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the ruling appended to the minutes. Counsel for the Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will enter a minute order.

3. [20-20008](#)-B-13 BRIAN PUNCHES OBJECTION TO CONFIRMATION OF  
[JPG](#)-2 Jeffrey P. Guyton PLAN BY JOHN T. POWERS AND RUTH  
Thru #4 M. POWERS  
2-19-20 [[55](#)]

**Tentative Ruling**

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C).

The court's decision is to overrule the objection as moot.

Subsequent to the filing of the Trustee's objection, the Debtors filed an amended plan on February 28, 2020. The confirmation hearing for the amended plan is scheduled for April 14, 2020. The earlier plan filed January 30, 2020, is not confirmed.

The objection is ORDERED OVERRULED AS MOOT and the motion is ORDERED DENIED AS MOOT for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

4. [20-20008](#)-B-13 BRIAN PUNCHES MOTION TO CONFIRM PLAN  
[JPG](#)-2 Jeffrey P. Guyton 1-30-20 [[45](#)]

**Tentative Ruling**

The motion been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed. The court will address the merits of the motion at the hearing.

The court's decision is to deny the motion to confirm as moot and overrule the objection as moot.

Subsequent to the filing of the Trustee's objection, an amended plan was filed on February 28, 2020. The confirmation hearing for the amended plan is scheduled for April 14, 2020. The earlier plan filed January 30, 2020, is not confirmed.

The motion is ORDERED DENIED AS MOOT for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

### **Tentative Ruling**

This is the continued hearing on a motion by Debtor Margaret Somkopulos ("Debtor") to extend the automatic stay of 11 U.S.C. § 362(a) beyond 30 days after the petition date. See 11 U.S.C. § 362(c)(3). The Debtor's motion was initially heard on February 18, 2020, and conditionally granted through March 17, 2020. Dkts. 22-23. The court continued the hearing on the Debtor's motion and extended the automatic stay conditioned on the Debtor's production of additional evidence of her daughter's ability to contribute \$3,620.00 per month towards the Debtor's plan payments. *Id.* The daughter's contribution is necessary to demonstrate a substantial change in the Debtor's financial circumstances from her previously-dismissed Chapter 13 case and plan feasibility in this Chapter 13 case.

In order to permit the court to determine if the Debtor's daughter could in fact contribute \$3,620.00 per month, the court ordered the Debtor to submit for in camera review (not file) a declaration from the daughter that included three months of pay stubs, three years of federal tax returns, and an itemized list of monthly expenses.<sup>1</sup> Dkt. 29. The Debtor did not comply with the court's order.

The Debtor filed her daughter's declaration on March 10, 2020. Dkt. 35. Exhibits filed with the declaration also do not comply with the court's order. Dkt. 36.<sup>2</sup> The exhibits include Chase Bank account statements for November 2019 through January 2020 and the daughter's 2019 W-2. The declaration and exhibits do not establish a substantial change in the Debtor's financial circumstances by clear and convincing (or even by a preponderance of) evidence.

The Chase Bank account statements are statements from a joint account held by the Debtor's daughter and her (debtor's daughter's) father into which rental income is deposited and from which rental expenses are paid. The declaration states that income into the account "average[s] around \$10,600 to \$12,000 per month with expenses that net [them] about \$9,000.00 per month." The declaration is inconsistent with the bank statements which reflect substantially less net monthly income: the January 2020 statement reflects a month-end balance of \$268.74; the December 2019 statement reflects a month-end balance of \$1,173.56; and the November 2019 statement reflects a month-end balance of \$123.19. Even assuming some of the "expenses" paid from the account are income payments to the Debtor's daughter, there is no evidence (much less any explanation) what that amount is or whether it is fixed or variable. In short, the Debtor has not demonstrated the specific amount, if anything, available to her daughter from Chase Bank account and, in any case, the amount available to the Debtor's daughter appears to be far less than needed to permit a \$3,620.00 monthly contribution.

Debtor's daughter also states that she nets approximately \$600.00 per week, or \$1,200.00 per month, from employment. She also states that she receives approximately \$150.00-\$200.00 per day in tips, or an additional \$4,000 per month (assuming best case scenario of \$200.00/day x 5 work days = \$1,000.00/week x 4 work weeks = \$4,000.00/month). The declaration does not state if the tips are gross or net, perhaps intentionally to make it appear as if the Debtor's daughter has an additional \$4,000.00, for a total of \$5,200.00, available per month. But the W-2 attached to the declaration tells a different story. Tips are taxable income. So assuming the Debtor's daughter reports all of her tips, the W-2 reflects annual gross income of \$18,954.00 and annual deductions of at least \$3,074.79. That translates to annual net

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<sup>1</sup>At the request of the Chapter 13 Trustee, the Debtor was also ordered to file an additional declaration explaining a \$150,000.00 settlement payment received regarding her property. That declaration was not filed.

<sup>2</sup>Because the exhibits included personally identifiable bank account and tax information, they have been removed from the docket.

income of \$15,879.61 and monthly net income of \$1,323.30.

The point is, the additional evidence provided by the Debtor does not establish by clear and convincing (or even by a preponderance of) evidence that the Debtor's daughter has the financial ability to contribute \$3,620.00 per month to the Debtor. Consequently, the Debtor has not established a substantial change in personal or financial circumstances from her previously-dismissed Chapter 13 case necessary for the court to extend the automatic stay beyond March 17, 2020.<sup>3</sup>

Debtor's motion to extend the automatic stay is denied without prejudice. The automatic stay is not extended beyond March 17, 2020, and thereafter shall terminate in its entirety. *Reswick v. Reswick (In re Reswick)*, 446 B.R. 362 (9th Cir. BAP 2011); see also *Smith v. State of Maine Bureau of Revenue Services (In re Smith)*, 910 F.3d 576 (1st Cir. 2018).

The motion is ORDERED DENIED WITHOUT PREJUDICE for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

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<sup>3</sup>The Debtor's prior Chapter 13 case was dismissed after she admitted she was unable to fund a plan based on a \$360,000.00 valuation of her property. The Debtor seeks to value the same property in this case at \$400,000.00. Whereas the Debtor was unable to fund a plan based on a \$360,000.00 valuation, she has not demonstrated that she is able to fund a plan based on a \$400,000.00 valuation.

### **Final Ruling**

The motion has been set for hearing on the 28-days notice required by Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the non-responding parties and other parties in interest are entered. The matter will be resolved without oral argument.

The court's decision is to deny the motion to value collateral.

Debtors' motion to value the secured claim of GM Financial ("Creditor") is accompanied by Debtors' declaration. Debtor is the owner of a 2016 Ford Explorer ("Vehicle"). The Debtors seek to value the Vehicle at a replacement value of \$22,373.00 as of the petition filing date. As the owner, Debtor's opinion of value is some evidence of the asset's value. *See Fed. R. Evid. 701; see also Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

### **Proof of Claim Filed**

The court has reviewed the Claims Registry for this bankruptcy case. It appears that Claim No. 3-1 filed by AmeriCredit Financial Services, Inc. dba GM Financial is the claim which may be the subject of the present motion.

### **Discussion**

The court finds issue with the Debtors' valuation. First, the declaration states that the valuation of the Vehicle is based on a Kelley Blue Book printout but this is a third party industry source and, therefore, Debtors' opinion of value is based on hearsay. *Fed. R. Evid. 801-803; see also In re Guerra*, 2008 WL 3200931, \*2 n.4 (Bankr. E.D. Cal. 2008) ("Filed with Guerra's declaration was an unauthenticated document titled: 'Edmonds.com True Market Value Pricing Report.' The court has not considered this attachment in that it is inadmissible hearsay[.]"). Second, the motion states that the valuation is a "private party" value. This is the value in which a private party, who is not a retailer, could buy or sell a car. The standard here must be a retail valuation, taking into account the condition of the car. *See 11 U.S.C. § 506(a)*.

In the Chapter 13 context, the replacement value of personal property used by debtors for personal, household or family purposes is "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." *See 11 U.S.C. § 506(a)(2)*.

The Debtors have not persuaded the court regarding their position for the value of the Vehicle. The valuation motion pursuant to *Fed. R. Civ. P. 3012* and *11 U.S.C. § 506(a)* is denied without prejudice.

The motion is ORDERED DENIED for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

**Final Ruling**

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtor has provided evidence in support of confirmation. No opposition to the motion has been filed by creditors. The Chapter 13 Trustee filed a non-opposition to the motion. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the ruling appended to the minutes. Counsel for the Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will enter a minute order.



8.     [18-26852](#)-B-13     JIMMY SANTOS AND JULIE     MOTION FOR RELIEF FROM  
          [JHK](#)-1           MAGHONEY SANTOS       AUTOMATIC STAY  
                      Peter L. Cianchetta       2-11-20 [[101](#)]

CREDIT ACCEPTANCE  
CORPORATION VS.  
DEBTOR DISMISSED: 2/25/2020  
JOINT DEBTOR DISMISSED:  
2/25/2020

**Final Ruling**

The case having been dismissed on February 25, 2020, the motion is dismissed as moot.  
No appearance is necessary.

The motion is ORDERED DISMISSED AS MOOT for reasons stated in the ruling appended to  
the minutes.

The court will enter a minute order.

9. [19-27653](#)-B-13 JUAN ZARAGOZA AND MARIA GARCIA  
[HDR](#)-1 Harry D. Roth MOTION TO AVOID LIEN OF  
WORLDWIDE ASSET PURCHASING II,  
LLC  
2-19-20 [[28](#)]

## **Tentative Ruling**

### Introduction

Presently before the court is a motion to avoid a lien of Worldwide Asset Purchasing II, LLC ("Creditor") filed by Debtors Juan Zaragoza and Maria Garcia ("Debtors"). For the reasons explained below, the motion will be denied without prejudice.

### Background

Creditor brought a lawsuit against Debtors in Yolo County Superior Court and a judgment was entered against the Debtors in that lawsuit. On March 27, 2019, an Earnings Withholdings Order ("EWO") was served on Debtors' employer, Access Transport & Logistics, for the total amount of \$5,447.54, plus assessment. As a result of the EWO, \$1,427.34 was taken by the Sheriff's Department. The \$1,427.34 is either held by the Sheriff's Department or has been transmitted to Creditor.

Debtor has claimed an exemption of \$3,337.46 on Schedule C.

### Discussion

Debtors move pursuant to § 522(f)(1) to avoid Creditor's lien created by the EWO. Section 522(f)(1)(A) permits a debtor to avoid a judicial lien that impairs an exemption to which the debtor is entitled.<sup>1</sup> Assuming that the seized funds are estate property – and therefore subject to a bankruptcy exemption – and further assuming that an EWO is judicial lien, see *Gately v. Moore (In re Gately)*, 2016 WL 6777316, \*1 n.3 (9th Cir. BAP 2016), under the facts of this case there exists no lien to avoid.

California Code of Civil Procedure § 706.029 expressly provides that a lien created by an EWO expires when the withholdings amount is paid. See Cal. Code Civ. P. § 706.029.<sup>2</sup> That means once the employer pays a Sheriff wages subject to an EWO, as Debtors state occurred here, even if § 522(f)(1)(A) is applicable there is no longer any lien to avoid. See e.g., *In re Solorzano*, 2013 WL 1701749, \*1 (Bankr. S.D. Cal. 2013).

### Conclusion

Even if applicable, § 522(f)(1)(A) does not entitle Debtor to the seized funds under the facts of this case. Therefore, for the foregoing reasons, Debtors' motion is denied without prejudice.

The court will enter a minute order.

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<sup>1</sup>Section 522(f)(1) allows a debtor to "avoid the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption to which the debtor would have been entitled under subsection (b) of this section, if such lien is- a judicial lien, other than a judicial lien that secures a debt of a kind that is specified in section 523(a)(5)[.]" 11 U.S.C. § 522(f)(1)(A).

<sup>2</sup>"Service of an earnings withholding order creates a lien upon the earnings of the judgment debtor that are required to be withheld pursuant to the order and upon all property of the employer subject to the enforcement of a money judgment in the amount required to be withheld pursuant to such order. The lien continues for a period of one year from the date the earnings of the judgment debtor become payable unless the amount required to be withheld pursuant to the order is paid as required by law." Cal. Code Civ. P. § 706.029.

10. [20-20054](#)-B-13 DAVID/LISA EUFEMIA MOTION FOR RELIEF FROM  
[HDP](#)-1 CARLSON AUTOMATIC STAY  
**Thru #11** Robert P. Huckaby 2-24-20 [[41](#)]  
TITLE HOLDING SERVICES CORP.  
VS.

**Final Ruling**

No appearance at the March 17, 2020, hearing is required. Moving party Title Holding Services Corp. has filed a notice to reschedule the hearing to April 7, 2020.

The court will enter a minute order.

11. [20-20054](#)-B-13 DAVID/LISA EUFEMIA AMENDED OBJECTION TO CLAIM OF  
[RPH](#)-1 CARLSON PYOD LLC, CLAIM NUMBER 1  
Robert P. Huckaby 1-28-20 [[23](#)]

**Final Ruling**

The objection has been set for hearing on at least 44 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(b)(1). The failure of the claimant to file written opposition at least 14 calendar days prior to the hearing is considered as consent to the sustaining of the objection. Cf. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the objecting party, an actual hearing is unnecessary. See *Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9 Cir. 2006). Therefore, the claimant's default is entered and the objection will be resolved without oral argument.

The court's decision is to sustain the objection to Claim No. 1 of PYOD LLC and the claim is disallowed in its entirety.

David Eufemia and Lisa Eufemia ("Objector") requests that the court disallow the claim of PYOD LLC ("Creditor"), Claim No. 1. The claim is asserted to be in the amount of \$44,289.87. Objector asserts that the claim should be disallowed because the statute of limitations has run pursuant to California Code of Civil Procedure § 337(1).

According to the proof of claim, the underlying debt is a contract claim, most likely based on a written contract. California law provides a four-year statute of limitations to file actions for breach of written contracts. See Cal. Civ. Pro. Code § 337. This statute begins to run from the date of the contract's breach. According to the proof of claim, the last payment was received on or about June 21, 2012, which is more than four years prior to the filing of this case. Hence, when the case was filed on January 6, 2020, this debt was time barred under applicable nonbankruptcy law, i.e., Cal. Civ. Pro. Code § 337(1), and must be disallowed. See 11 U.S.C. § 502(b)(1).

Based on the evidence before the court, the Creditor's claim is disallowed in its entirety.

The objection is ORDERED SUSTAINED for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

12. [17-26656](#)-B-13 STACY/MICHAEL SAVOCA  
[CLH](#)-2 Cindy Lee Hill

MOTION TO EMPLOY CATIA G.  
SARAIVA AS SPECIAL COUNSEL  
2-11-20 [[35](#)]

**Final Ruling**

The motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). However, no proof of service was filed and it cannot be determined whether sufficient notice was given to interested parties. Therefore, the court's decision is to deny the motion without prejudice.

The motion is ORDERED DENIED for reasons stated in the ruling appended to the minutes.

The court will enter an appropriate minute order.

13. [17-20973](#)-B-13 JESSE FARLEY  
MJ-[1](#) Richard L. Sturdevant

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
1-31-20 [[48](#)]

CHAMPION MORTGAGE COMPANY  
VS.

**No Ruling**

14. [19-26277](#)-B-13 JUAN MONGALO AND MILAGROS MOTION TO CONFIRM PLAN  
[MMN](#)-5 MONGALO ROBLETO 1-27-20 [[114](#)]  
Michael M. Noble

**Final Ruling**

The Debtors having filed a notice of withdrawal for the pending motion, the withdrawal being consistent with any opposition filed to the motion, the court interpreting the notice of withdrawal to be an ex parte motion pursuant to Fed. R. Civ. P. 41(a)(2) and Fed. R. Bankr. P. 9014 and 7014 for the court to dismiss without prejudice the motion, and good cause appearing, the motion is dismissed without prejudice.

The motion is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

15. [19-27188](#)-B-13 RAMON MIRANDA CONTINUED OBJECTION TO  
[DPC](#)-1 Bert M. Vega CONFIRMATION OF PLAN BY DAVID P  
CUSICK  
1-7-20 [[22](#)]

CONTINUED TO 5/12/2020 AT 1:00 P.M. TO BE HEARD AFTER CONTINUED MEETING OF  
CREDITORS SET FOR 5/07/2020.

**Final Ruling**

No appearance at the March 17, 2020, hearing is required. The court will enter a  
minute order.

**Final Ruling**

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The court's decision is to confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtors have provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the ruling appended to the minutes. Counsel for the Debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will enter a minute order.



17. [20-20054](#)-B-13 DAVID/LISA EUFEMIA CONTINUED OBJECTION TO  
Thru #18 CARLSON CONFIRMATION OF PLAN BY TITLE  
See Also #s Robert P. Huckaby HOLDING SERVICES CORP.  
10-11 2-7-20 [[27](#)]

**Tentative Ruling**

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

The court's decision is to sustain the objection and deny confirmation of the plan.

Objecting creditor Title Holding Services Corp. holds a deed of trust secured by the Debtors' real property that is not their primary residence. The creditor has filed a timely proof of claim in which it asserts \$65,567.07 in pre-petition arrearages. The plan does not propose to cure these arrearages. Because the plan does not provide for the surrender of the collateral for this claim, the plan must provide for payment in full of the arrearage as well as maintenance of the ongoing note installments. See 11 U.S.C. §§ 1322(b)(2), (b)(5) and 1325(a)(5)(B). Because it fails to provide for the full payment of arrearages, the plan cannot be confirmed.

The plan filed January 19, 2020, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

The objection is ORDERED SUSTAINED for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

18. [20-20054](#)-B-13 DAVID/LISA EUFEMIA CONTINUED OBJECTION TO  
[DPC-1](#) CARLSON CONFIRMATION OF PLAN BY DAVID  
Robert P. Huckaby P. CUSICK  
2-19-20 [[33](#)]

**Tentative Ruling**

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

The court's decision is to sustain the objection and deny confirmation of the plan.

First, the Debtors have not provided the Trustee with a copy of an income tax return for the most recent tax year a return was filed. The Debtors have not complied with 11 U.S.C. § 521(e)(2)(A)(1).

Second, the Debtors have not provided the Trustee with requested business documents including a completed business examination questionnaire, income tax returns for the 2-year period prior to the filing of the petition, bank account statements for the 6-month period prior to the filing of the petition, and proof of all required insurance or permits. It cannot be determined whether the business is solvent and necessary for reorganization. The Debtor has not complied with 11 U.S.C. § 521.

Separately, the Debtors appeared at their continued meeting of creditors held on March 12, 2020. The meeting was concluded as to both Debtor and Joint Debtor.

The plan filed January 19, 2020, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

The objection is ORDERED SUSTAINED for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

19. [20-21152](#)-B-13 LINDA WOOLEY  
[EJS](#)-1 Eric John Schwab

MOTION TO EXTEND AUTOMATIC STAY  
O.S.T.  
3-12-20 [[14](#)]

**No Ruling**