

**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 18, 2025

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 18, 2025 at 1:00 p.m.

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| 1. <u>25-20002</u> -B-13 ABID AJMAL AND AMRA
<u>LGT</u> -1 SHAFQAT
Peter G. Macaluso | OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
2-24-25 [<u>19</u>] |
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Final Ruling

The *initial* Chapter 13 Plan filed January 13, 2025, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to March 25, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtors list income on Schedule I Line 8a but have failed to attach a statement for each rental property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income. Debtors must also provide corrected profit and loss statements for the 6 months prior to filing since the one provided to the Chapter 13 Trustee was a one-page aggregate. 11 U.S.C. § 1325(a)(1).

Second, Debtors must file amended Schedules I and J evidencing their ability to make the monthly plan payment of \$5,800.00. Until Debtors file amended Schedules I and J, it cannot be determined whether Debtors will be able to make the plan payment or if the plan is feasible. 11 U.S.C. § 1325(a)(6).

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

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on March 21, 2025, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtors, the Debtors' attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on March 25, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on March 25, 2025, at 1:00 p.m.

The objection is ORDERED CONDITIONALLY SUSTAINED for reasons stated in the minutes.

The court will issue an order.

March 18, 2025 at 1:00 p.m.

2. [25-20011](#)-B-13 NICOLE MERRITT-ARMAS
[LGT](#)-1 Nicholas Wajda

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
2-24-25 [[16](#)]

Final Ruling

The *initial* Chapter 13 Plan filed January 2, 2025, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to March 25, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Creditor San Joaquin - Revenue and Recovery is incorrectly placed in Class 1 and should be placed in Class 2 because there are no pre-petition arrears owed or arrearage dividend provided as to this creditor. 11 U.S.C. § 1325(a)(1).

Second, The plan provides for payments to creditors for a period longer than 5 years. 11 U.S.C. § 1322(d). However, this proposed plan payments will require 63.28 months to fund. The Chapter 13 Trustee's calculations indicate that Debtor's plan payment will need to be increased to \$4,816.23 per month for the plan term of 60 months to be feasible.

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

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on March 21, 2025, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtor, the Debtor's attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on March 25, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on March 25, 2025, at 1:00 p.m.

The objection is ORDERED CONDITIONALLY SUSTAINED for reasons stated in the minutes.

The court will issue an order.

3. [25-20033](#)-B-13 BRANDON JOHNSON
[LGT](#)-1 Rabin Pournazarian

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
2-24-25 [[12](#)]

Final Ruling

The *initial* Chapter 13 Plan filed January 6, 2025, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to March 25, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, the plan provides for payments to creditors for a period longer than 5 years. 11 U.S.C. § 1322(d). Debtor's plan provides for Crescent Bank (2015 Dodge Ram) with a total claim of \$33,025.00 in Class 2. However, Crescent Bank & Trust filed proof of claim 1-1 on January 8, 2025, for a total of \$33,719.29. The claim is taking 61.52 months to fund. In order for the claim to fund within the 60-month plan term, the monthly dividend must increase to \$667.68 per month. The plan payment must also increase to \$1,020.59 per month for 60 months to accommodate the dividend increase.

Second, the Disclosure of Compensation of Attorney for Debtor form filed January 6, 2025, is incorrect. In regard to question 5, line items are missing. The form does not match that of the form provided on the Eastern District of California Bankruptcy Court's website. Local Bankruptcy Rule 2016-1(c).

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

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on March 21, 2025, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtor, the Debtor's attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on March 25, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on March 25, 2025, at 1:00 p.m.

The objection is ORDERED CONDITIONALLY SUSTAINED for reasons stated in the minutes.

The court will issue an order.

4. [24-24634](#)-B-13 JORGE MALDONADO AND MOTION TO CONFIRM PLAN
[PGM](#)-1 FIDELINA HUERTA 2-11-25 [[34](#)]
Peter G. Macaluso

Final Ruling

The motion has 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 and a response were filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

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

The Chapter 13 Trustee objects to plan confirmation on grounds that the plan provides for payments to creditors for a period longer than 5 years. 11 U.S.C. § 1322(d). The current plan payment proposal of \$715.00 per month for months 4-60 causes the plan to fund in 67.21 months. The plan payments will need to increase to \$801.70 per month for months 4-60. However, this plan payment of \$801.70 is not feasible per Schedule J.

Debtors filed a response stating that they have amended Schedules I and J to show a monthly contribution of \$100.00 from their daughter. The Declaration of Ana Maldonado has been filed stating that this contribution is a gift without any expectation of repayment. The contribution will be for the life of the plan and will allow for the increased plan payment of \$801.70.

Given the aforementioned, the amended plan complies with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

5. [25-20050](#)-B-13 STEPHANIE DAVIS OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Pro Se PLAN BY LILIAN G. TSANG
Thru #7 2-25-25 [[37](#)]

CONTINUED TO 3/25/25 AT 1:00 P.M. AT THE SACRAMENTO COURTROOM TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS HELD 3/19/25.

Final Ruling

No appearance at the March 18, 2025, hearing is required. The court will issue an order.

6. [25-20050](#)-B-13 STEPHANIE DAVIS MOTION TO CONFIRM TERMINATION
[SKI](#)-1 Pro Se OR ABSENCE OF STAY AND/OR
CREDIT ACCEPTANCE MOTION FOR RELIEF FROM
CORPORATION VS. AUTOMATIC STAY
2-12-25 [[24](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. 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). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to grant the motion confirming the absence of the automatic stay.

Credit Acceptance Corporation ("Movant") seeks an order confirming that the automatic stay is not in effect with respect to a 2020 Nissan Rogue ("Vehicle"). The Movant seeks the confirmation on the grounds that the Debtor had two prior bankruptcy cases that were dismissed, pending within the one year prior to the filing of this case. This is the Debtors' third bankruptcy filing since January 7, 2024.

On November 14, 2023, the Debtor filed for Chapter 13 relief in the Northern District of California (case no. 23-41479). It was dismissed on May 14, 2024. On May 28, 2024, the Debtor again filed for Chapter 13 relief in the Northern District of California (case no. 24-40780). It was dismissed on October 23, 2024. The Debtor filed the instant case on January 7, 2025, in the Eastern District of California.

11 U.S.C. § 362(c)(4)(A) provides that (I) "if a single or joint case is filed by or against a debtor who is an individual under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b), the stay under section (a) shall not go into effect upon the filing of the later case; and (ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect."

The court has reviewed the dockets of the first and second prior cases and has confirmed that those cases were pending within the previous year of the filing of the instant case and that the court dismissed those previous cases. Accordingly, the court will confirm that the automatic stay did not go into effect upon the filing of the instant case on January 7, 2025. See 11 U.S.C. § 362(c)(4)(A)(ii).

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.

7. [25-20050](#)-B-13 STEPHANIE DAVIS
[SKI](#)-2 Pro Se

OBJECTION TO CONFIRMATION OF
PLAN BY CREDIT ACCEPTANCE
CORPORATION
2-18-25 [[32](#)]

CONTINUED TO 3/25/25 AT 1:00 P.M. AT THE SACRAMENTO COURTROOM TO BE HEARD AFTER THE
CONTINUED MEETING OF CREDITORS HELD 3/19/25.

Final Ruling

No appearance at the March 18, 2025, hearing is required. The court will issue an
order.

8. [24-24465](#)-B-13 MATTHEW GREGORIO MOTION TO CONFIRM PLAN
GC-1 Julius J. Cherry 1-16-25 [[42](#)]
Thru #9

Final Ruling

Debtor Matthew Gregorio ("Debtor") and the Chapter 13 Trustee entered into a stipulation whereby the chapter 13 plan shall pay 100% to Debtor's general unsecured creditors plus interest at the 4.25% federal judgment rate, and that this provision will be added as a nonstandard provision.

Additionally, the objection to claim of Laura Gregorio, claim number 7-1, GC-2, having been sustained and disallowed, there is no other issue preventing the plan from being confirmed.

Therefore, the first amended plan complies with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

9. [24-24465](#)-B-13 MATTHEW GREGORIO OBJECTION TO CLAIM OF LAURA
GC-2 Julius J. Cherry GREGORIO, CLAIM NUMBER 7
1-16-25 [[48](#)]

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 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 and a reply were filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the objection. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is sustain the objection and disallow the late-filed claim.

Debtor Matthew Gregorio ("Debtor") requests that the court disallow the claim of to be ex-spouse Laura Gregorio ("Creditor"), Claim No. 7-1. The claim is asserted to be unsecured in the amount of \$73,250.00. Debtor asserts that the claim has not been timely filed. See Fed. R. Bankr. P. 3002(c). The deadline for filing proofs of claim in this case for a non-government unit was December 12, 2024. The Creditor's claim was filed December 20, 2024.

Creditor filed an opposition stating that while her claim was filed 8 days after the deadline, her claim:

(1) falls under the exception to deadline pursuant to Rule 3002(c)(3), which allows a creditor holding a judgment against a debtor to file a proof of claim within 30 days after the judgment is entered; and

(2) that the time to file the claim should be extended pursuant to Rule 3002(c)(7) since notice was insufficient to give reasonable time to file.

Debtor filed a reply asserting that Rule 3002(c)(3) is inapplicable because Creditor has no judgment from their pending state court divorce proceeding and that Rule 3002(c)(3) is only available for secured creditors who become unsecured creditors as a result of a lien strip or other occurrence. Additionally, Debtor argues that Creditor cannot utilize Rule 3002(c)(7) extending the time to file a proof of claim because she did not bring this matter by way of filing a motion.

Discussion

Section 501(a) of the Bankruptcy Code provides that any creditor may file a proof of claim. "A proof of claim is a written statement setting forth a creditor's claim." Rule 3001(a). If the claim meets the requirements of § 501, the bankruptcy court must then determine whether the claim should be allowed. Section 502(a) provides that a claim is deemed allowed unless a party in interest objects. If such an objection is made, the court shall allow such claim "except to the extent that the proof of claim is not timely filed." See 11 U.S.C. § 502(b)(9).

Federal Rule of Bankruptcy Procedure 3002(c) governs the time for filing proofs of claim in a Chapter 13 case. Rule 9006(b)(3) prohibits the enlargement of time to file a proof of claim under Rule 3002(c) except as provided in one of the circumstances included in Rule 3002(c). *Zidell, Inc. v. Forsch (In re Coastal Alaska Lines, Inc.)*, 920 F.2d 1428, 1432-1433 (9th Cir. 1990) ("We . . . hold that the bankruptcy court cannot enlarge the time for filing a proof of claim unless one of the six [now seven] situations listed in Rule 3002(c) exists."). These limitations preclude extensions based on excusable neglect, *id. at 1432*, or on any other equitable grounds. *Spokane Law Enforcement Federal Credit Union v. Barker (In re Barker)*, 839 F.3d 1189, 1197-98 (9th Cir. 2016).

Creditor argues that Rule 3002(c)(3) should apply because there is a pending pre-petition divorce proceeding between herself and Debtor. Although there is no present final judgment due to Debtor's bankruptcy filing and the imposition of the automatic stay, Creditor asserts that Rule 3002(c)(3)'s exception to the deadline for filing a proof of claim should apply, that her claim should be allowed, and that she should have leave to amend the claim when final adjudication of obligations and judgments of the state court become final.

The court finds Rule 3002(c)(3) inapplicable. The state court has not made any formal (or final) judgment on the dissolution of Debtor and Creditor's marriage. Indeed, Creditor concedes as much. "The absence of a judgment in that proceeding precludes any relief under the plain language of Rule 3002(c)(3)." *In re Roubert*, 336 B.R. 22, 26 (Bankr. D. Puerto Rico 2005). Therefore, Creditor's request that her proof of claim fall under the exception to deadline pursuant to Rule 3002(c)(3) is denied without prejudice.

Separately, Rule 3002(c)(7) permits a creditor to file a motion before or after the time to file a proof of claim has expired and request that the court extend the time to file by no more than 60 days from the date of its order. The motion may be granted if the court finds that notice was insufficient to give the creditor a reasonable time to file. Creditor's argument under Rule 3002(c)(7) fails for two reasons - one procedural and the other substantive.

First, the procedural. Creditor did not file a separate motion. For this reason alone, and not based on the particular circumstances raised by Creditor, the request that Rule 3002(c)(7) apply is denied without prejudice.

Second, the substantive. Debtor scheduled Creditor as an unsecured creditor with a \$150,000 claim. Dkt. 1, Sch. E/F at 4.6. Notice of the bankruptcy case, which included the bar date for filing proofs of claim by non-governmental entities, was sent to Creditor on October 20, 2024, and, thus, was sent to Creditor nearly two months prior to the December 12, 2024, claims bar date. Dkt. 10. This notice was sent by first class mail to 3218 Ranken Place, El Dorado Hills, CA, 95762, where Creditor resided at the time. See dkt. 22, pp. 3 and 11, ¶ 6.

Additionally, Creditor is - and on and before the claims bar date was - represented by

a bankruptcy practitioner who regularly files and appears in bankruptcy cases in this district. Extremely relevant in this regard is that Creditor's bankruptcy attorney appeared in this case when he accessed the docket in the early afternoon on December 12, 2024, and electronically filed the following documents on Creditor's behalf:

- (1) a motion to sell, dkt. 20;
- (2) a notice of hearing, dkt. 21;
- (3) exhibits, dkt. 22;
- (4) a declaration, dkt. 23;
- (5) a joinder, dkt. 24;
- (6) an application for an order shortening time, dkt. 25;
- (7) a stipulation for relief from the automatic stay, dkt. 26;
- (8) more exhibits, dkt. 27; and
- (9) a certificate of service, dkt. 29.

Given these circumstances, *i.e.*, notice of the bankruptcy case and the claims bar date to Creditor months before the claims bar date expired, Creditor's representation by a seasoned bankruptcy practitioner, Creditor's appearance in the case by a bankruptcy attorney before the bar date expired, and the ease with which documents are electronically filed---and were in fact electronically filed by Creditor's bankruptcy attorney on the claims bar date, the court has no difficulty concluding that Creditor had notice of this bankruptcy case sufficient to give Creditor a reasonable time to file a claim before the bar date expired.¹ Relief under Rule 3002(c)(7) is therefore denied.

The objection is ORDERED SUSTAINED and Creditor's late-filed claim, Claim No. 7-1, is disallowed in its entirety.

The court will issue an order.

¹The suggestion in Creditor's opposition - prepared by her bankruptcy attorney - that she did not understand the need to file a claim in this case is without merit. And it is not credible. As noted above, Creditor appeared in this case through a seasoned bankruptcy practitioner before the claims bar date expired. Creditor's bankruptcy attorney bears the ultimate responsibility for deadlines in the case. See *Avazian v. Beers*, 2014 WL 12965751, *2 (E.D. Cal. March 28, 2014) (so stating); *Multifamily Captive Group, LLC v. Assurance Risk Managers, Inc.*, 2008 WL 2947691, *1 (E.D. Cal. July 28, 2008) ("plaintiffs' current counsel are the attorneys of record and are responsible for comporting with the court's deadlines in the representation of their clients."); *Singh v. Arrow Truck Sales, Inc.*, 2006 WL 1867540, *1 (E.D. Cal. July 5, 2006) ("But it should never be forgotten that the attorney of record is ultimately responsible for [meeting prescribed filing deadlines].") *Dela Rosa v. Scottsdale Memorial Health Systems, Inc.*, 136 F.3d 1241, 1244 (9th Cir.1998)."

Tentative Ruling

The motion has been set for hearing on 28-days notice. 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). No opposition was filed.

The court's decision is to grant the motion to extend automatic stay.

Debtors seeks to have the automatic stay extended beyond 30 days pursuant to 11 U.S.C. § 362(c)(3). This is the Debtors' second bankruptcy petition pending in the past 12 months. The Debtors' prior bankruptcy case was dismissed on January 28, 2025, at Debtors' voluntary dismissal (case no. 24-23214, dkt. 59). Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end in their entirety 30 days after filing of the petition. *See e.g., Reswick v. Reswick (In re Reswick)*, 446 B.R. 362 (9th Cir. BAP 2011) (stay terminates in its entirety); *accord Smith v. State of Maine Bureau of Revenue Services (In re Smith)*, 910 F.3d 576 (1st Cir. 2018). This motion was filed within 30 days of the filing of the instant chapter 13 case.

Discussion

Upon motion of a party in interest and after notice and hearing, the court may order the provisions extended beyond 30 days if the filing of the subsequent petition was in good faith. 11 U.S.C. § 362(c)(3)(B). The subsequently filed case is presumed to be filed in bad faith if there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13. *Id.* at § 362(c)(3)(C)(i)(III). The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* at § 362(c)(3)(C).

In determining if good faith exists, the court considers the totality of the circumstances. *In re Elliot-Cook*, 357 B.R. 811, 814 (Bankr. N.D. Cal. 2006); *see also* Laura B. Bartell, *Staying the Serial Filer - Interpreting the New Exploding Stay Provisions of § 362(c)(3) of the Bankruptcy Code*, 82 Am. Bankr. L.J. 201, 209-210 (2008).

Debtors state that they had voluntarily dismissed the prior chapter 13 case because they became aware that penalties and interest were due on their mortgage, a proof of claim was not filed by a secured creditor was not filed by the bar date, and they learned that they owed an additional \$4,000 in income taxes for the 2024 tax year. Given this totality of circumstances, Debtors determined that a plan would be difficult to confirm and likely unfeasible. Thus, it was necessary for Debtors to dismiss their prior case, get caught up on mortgage penalties and interest, adjust withholdings, and include the additional tax debt in a new bankruptcy and new plan. Debtors have filed this case in good faith given that they have changed their personal affairs to make confirmation of a plan feasible in this case.

The Debtors have sufficiently rebutted, by clear and convincing evidence, the presumption of bad faith under the facts of this case and the prior case for the court to extend the automatic stay.

The motion is granted and the automatic stay is extended for all purposes and parties, unless terminated by operation of law or further order of this court.

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.

Tentative Ruling

The motion has been set for hearing on 28-days notice. 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). No opposition was filed.

The court's decision is to grant the motion to extend automatic stay.

Debtor seeks to have the automatic stay extended beyond 30 days pursuant to 11 U.S.C. § 362(c)(3). This is the Debtor's second bankruptcy petition pending in the past 12 months. The Debtor's prior bankruptcy case was dismissed on November 19, 2024, due to failure to make plan payments (case no. 24-22891, dkt. 54). Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end in their entirety 30 days after filing of the petition. See e.g., *Reswick v. Reswick (In re Reswick)*, 446 B.R. 362 (9th Cir. BAP 2011) (stay terminates in its entirety); accord *Smith v. State of Maine Bureau of Revenue Services (In re Smith)*, 910 F.3d 576 (1st Cir. 2018). This motion was filed within 30 days of the filing of the instant chapter 13 case.

Discussion

Upon motion of a party in interest and after notice and hearing, the court may order the provisions extended beyond 30 days if the filing of the subsequent petition was in good faith. 11 U.S.C. § 362(c)(3)(B). The subsequently filed case is presumed to be filed in bad faith if there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13. *Id.* at § 362(c)(3)(C)(i)(III). The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* at § 362(c)(3)(C).

In determining if good faith exists, the court considers the totality of the circumstances. *In re Elliot-Cook*, 357 B.R. 811, 814 (Bankr. N.D. Cal. 2006); see also Laura B. Bartell, *Staying the Serial Filer - Interpreting the New Exploding Stay Provisions of § 362(c)(3) of the Bankruptcy Code*, 82 Am. Bankr. L.J. 201, 209-210 (2008).

Debtor states that she fell behind on plan payments after learning of her father's cancer diagnosis and was unable to participate meaningfully in the case thereafter. From August to late-October 2024, Debtor was working and caring for her father in Reno, Nevada. Debtor states that her personal affairs have changed since her father is doing better and under care. Debtor states she is in a better position to participate in her case and work toward a confirmable plan. Debtor states that she has taken measures by ensuring that she has sufficient income to pay the mortgage arrears, tax debts, and all unsecured debts in the next five years, confirming adequate withholding on wages so she will not owe taxes in the next 5 years, and filing required income taxes.

The Debtor has sufficiently rebutted, by clear and convincing evidence, the presumption of bad faith under the facts of this case and the prior case for the court to extend the automatic stay.

The motion is granted and the automatic stay is extended for all purposes and parties, unless terminated by operation of law or further order of this court.

The motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.

12. [24-25197](#)-B-13 DENISE REES CONTINUED OBJECTION TO
[LGT](#)-1 Peter G. Macaluso CONFIRMATION OF PLAN BY LILIAN
G. TSANG
1-2-25 [[26](#)]

CONTINUED TO 4/15/25 AT 1:00 P.M. AT THE SACRAMENTO COURTROOM TO ALLOW DEBTOR TO OBTAIN
NEWLY EARNED PAYROLL DOCUMENTS FROM HER EMPLOYER AND TO REMAIN CURRENT ON THE PROPOSED
PLAN. SEE DKTS. 38, 52.

Final Ruling

No appearance at the March 18, 2025, hearing is required. The court will issue an
order.