



24824 **UNITED STATES BANKRUPTCY COURT**
Eastern District of California 22673

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

DAY: TUESDAY
DATE: MARCH 25, 2025
CALENDAR: 9:00 A.M. CHAPTER 13 CASES

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

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.

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

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

MIKALAH LIVIAKIS/ATTY. FOR DBT.

Tentative Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) and (6) as the debtors have failed to make all payments due under the plan. The trustee contends that the debtor is delinquent in the amount of \$7,615.00 with one payment of \$3,238.00 coming due prior to the hearing.

The debtors' opposition states that the debtor has will be able to be current under the modified plan they filed. In effect, the debtor's statements regarding amounts remaining to be paid admits the existence of a delinquency.

11 U.S.C. § 1307(c)(1) (unreasonable delay) provides the rule of decision. The trustee filed this motion to dismiss because the debtor was delinquent in the amount of \$7,615.00. Motion to Dismiss, ECF No. 38. The court continued the hearing to allow the debtor to cure the default by filing a modified Chapter 13 plan pursuant to 11 U.S.C. § 1329. See Civil Minute Order, ECF No. 52. The debtor filed a modified plan and moved to confirm the plan, Motion to Modify Plan, ECF No. 47. The court has indicated its intention to deny confirmation of the modified plan based on a lack of feasibility. For these reasons, the motion to dismiss the case will be granted.

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. Payments are delinquent in the amount of \$7,615.00. This delinquency constitutes cause to dismiss this case. 11 U.S.C. § 1307(c)(1), (6). The court hereby dismisses this case.

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

MOTION TO MODIFY PLAN
2-4-2025 [\[47\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Motion to Modify Chapter 13 Plan

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

Disposition: Denied

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 opposes the motion, objecting to 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).

Inability to Make All Plan Payments

The Trustee has objected to the confirmation of the modified plan due to the lack of feasibility. Opposition, ECF No. 54. The trustee raises the concern that the proposed plan relies on income that will expire in October 2025. *Id.* With their motion to modify, Debtors filed Amended Schedules I and J, ECF No. 45. Schedule I states that \$1,160.00 of "Debtor's Disability Pay is set to expire October 2025". *Id.*

"The court shall confirm a plan if ... the debtor will be able to make *all payments* under the plan." 11 U.S.C. § 1325(a)(6), *emphasis added*. In this instant matter, the debtors are currently delinquent and are moving to modify their plan to make it feasible. However, the plan modification relies on income that will expire through the life of the plan. Further, debtors acknowledge that the current benefits are set to expire and state they "believe that they will have sufficient income to continue to make their plan payment[s]". Response, ECF 58, 2:1-2. While debtors may be able to complete their plan payments for the next several months under the modified plan, it does not appear feasible when the disability pay expires in October 2025. 11 U.S.C. § 1325(a)(6) clearly states for the plan to be confirmed the debtor must be able to make *all* of the payments under the plan. It is for this reason that the plan is not feasible, and thus cannot be confirmed.

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 modify 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. The court denies modification of the chapter 13 plan.

3. [24-22001](#)-A-13 **IN RE: LEON BROWN**
[DPC-2](#)

MOTION TO DISMISS CASE
2-14-2025 [\[38\]](#)

MATTHEW DECAMINADA/ATTY. FOR DBT.

Final Ruling

Motion: Dismiss Case

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

Disposition: Continued to April 15, 2025, at 9:00 a.m.

Order: Civil minute order

Opposition Due: March 11, 2025

Opposition Filed: March 11, 2025 - timely

Motion to Modify Plan Filed: March 11, 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. The trustee contends that the debtor is delinquent in the amount of \$3,154.00, with two payment(s) of \$1,277.00 due prior to the hearing date on this motion.

A modified plan has been timely filed and set for hearing in this case. The scheduled hearing on the modification is April 15, 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 April 15, 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.

4. [22-20602](#)-A-13 **IN RE: ADRIANA CHRISTIAN**
[DPC-3](#)

MOTION TO DISMISS CASE
2-13-2025 [\[44\]](#)

MIKALAH LIVIAKIS/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: March 11, 2025

Opposition Filed: March 11, 2025 - timely

Cause: 11 U.S.C. § 1307(c)(1), (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 \$1,666.51, with two other payments of \$595.00 due by the date of the hearing.

The debtor has filed a timely opposition which is accompanied by the Declaration of the Debtor, ECF Nos. 48 & 49. 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. 49.

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.

5. [24-25005](#)-A-13 **IN RE: JAMIE WOLSKY**
[MWB-2](#)

AMENDED MOTION TO CONFIRM PLAN
2-5-2025 [\[28\]](#)

MARK BRIDEN/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Amended Motion to Confirm Plan

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

Disposition: Denied without prejudice

Order: Civil minute order

Debtor seeks an order confirming the Amended Chapter 13 Plan. For the following reasons the motion will be denied without prejudice.

NOTICE

The court will deny the motion without prejudice on grounds of insufficient service of process. Federal Rule of Bankruptcy Procedure 2002(a), (h), 9034; LBR 2002-3 provides the rule of decision. Since the claims bar date has passed, the only parties in interest that must be noticed are creditors that have actually filed claims, the Chapter 13 trustee, and the United States Trustee. *Id.* Here, the Certificate of Service purports to have served the debtors, the debtors' attorney, the case trustee, and the United States Trustee. See *id.*, Section 5. However, there is no Attachment 6A1 as indicated in the Certificate at Item 6, showing where the parties were served. *Id.*, Section 6. As a result, the movant has not sustained its burden of proof as to noticing of the plan.

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:

Debtor's motion to confirm an amended plan 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.

6. [24-25205](#)-A-13 **IN RE: MERRILEE ZERROUGUI**
[AP-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY CREDITOR
CITIZENS BANK, N.A.
12-16-2024 [\[22\]](#)

WENDY LOCKE/ATTY. FOR MV.

Final Ruling

Matter: Objection to Confirmation of Chapter 13 Plan
Notice: LBR 3015-1(c)(4); no written opposition required
Disposition: Overruled as moot
Order: Civil minute order

Chapter 13 debtors may modify the plan before confirmation. 11 U.S.C. § 1323(a). If the debtor files a modification of the plan under § 1323, the modified plan becomes the plan. 11 U.S.C. § 1323(b). Filing a modified plan renders moot any objection to confirmation of the prior plan. The debtor has filed a modified plan after this objection to confirmation was filed, ECF No. 51. The objection will be overruled as moot.

CIVIL MINUTE ORDER

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

IT IS ORDERED that the objection to confirmation is overruled as moot.

7. [24-25205](#)-A-13 **IN RE: MERRILEE ZERROUGUI**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE DAVID
P. CUSICK
1-8-2025 [\[31\]](#)

Final Ruling

Matter: Objection to Confirmation of Chapter 13 Plan
Notice: LBR 3015-1(c) (4); no written opposition required
Disposition: Overruled as moot
Order: Civil minute order

Chapter 13 debtors may modify the plan before confirmation. 11 U.S.C. § 1323(a). If the debtor files a modification of the plan under § 1323, the modified plan becomes the plan. 11 U.S.C. § 1323(b). Filing a modified plan renders moot any objection to confirmation of the prior plan. The debtor has filed a modified plan after this objection to confirmation was filed, ECF No. 51. The objection will be overruled as moot.

CIVIL MINUTE ORDER

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

IT IS ORDERED that the objection to confirmation is overruled as moot.

8. [25-20207](#)-A-13 **IN RE: JORDAN/HAYLEY LANGLITZ**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK,
CHAPTER 13 TRUSTEE
2-26-2025 [\[14\]](#)

MIKALAH LIVIAKIS/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 June 10, 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 June 10, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than April 15, 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 May 13, 2025. The evidentiary record will close after May 13, 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.

9. [22-22508](#)-A-13 **IN RE: DANIEL/PHILANA SANCHEZ**
[MS-2](#)

MOTION FOR SUBSTITUTION
2-21-2025 [\[40\]](#)

MARK SHMORGON/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Substitution of Representative, Continued Administration, Waiver of Personal Financial Management and Waiver of Certifications

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

Disposition: Denied

Order: Civil minute order

Daniel Sanchez prays appointment of a personal representative, substitution of the representative, continued administration, waiver of the post-petition education requirement and the § 1328 certification for his now deceased spouse Philana Sanchez.

DISCUSSION

Suggestion of Death

When a chapter 13 debtor dies, counsel for the debtor shall file a Suggestion of Death.

Notice of Death. In a bankruptcy case which has not been closed, a *Notice of Death of the debtor* [Fed. R. Civ. P. 25(a), Fed. R. Bankr. P. 7025] shall be filed within sixty (60) days of the death of a debtor by the counsel for the deceased debtor or the person who intends to be appointed as the representative for or successor to a deceased debtor. The Notice of Death shall be served on the trustee, U.S. Trustee, and all other parties in interest. A copy of the death certificate (redacted as appropriate) shall be filed as an exhibit to the Notice of Death.

LBR 1016-1(a) (emphasis added); see also, Fed. R. Civ. P. 25(a), incorporated by Fed. R. Bank. P. 7025, 9014(c).

Here, a Notice of Death and the required death certificate were filed on February 21, 2025, ECF No. 40.

Substitution of Representative

Upon the death of the debtor, a personal representative for the debtor must be substituted as the real party in interest.

An action must be prosecuted in the name of the real party in interest. The following may sue in their own names without joining the person for whose benefit the action is brought: (A) an executor; (B) an

administrator; (C) a guardian; (D) a bailee; (E) a trustee of an express trust; (F) a party with whom or in whose name a contract has been made for another's benefit; and (G) a party authorized by statute.

Fed. R. Civ. P. 17(a), *incorporated by Fed. R. Bankr. P. 7017, 9014(c)* (emphasis added).

Where the debtor dies during the administration of a chapter 13 case, the action is not abated, and administration shall continue. Fed. R. Bankr. P. 1016. But a representative for the now deceased debtor needs to be appointed. And that appointment process is implemented by Rule 25(a).

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25, *incorporated by Fed. R. Bankr. P. 7025, 9014(c)* and LBR 1016-1(a).

The applicant Daniel Sanchez is the spouse of the deceased debtor and is also a co-debtor in this Chapter 13 proceeding. Philana Sanchez died on January 30, 2025, and this motion for appointment of a representative was filed on February 21, 2025, within the 90-day statutory period.

Continued Administration

Continued administration on behalf of a deceased chapter 13 debtor is discretionary.

Death or incompetency of the debtor shall not abate a liquidation case under chapter 7 of the Code. In such event the estate shall be administered, and the case concluded in the same manner, so far as possible, as though the death or incompetency had not occurred. *If a reorganization, family farmer's debt adjustment, or individual's debt adjustment case is pending under chapter 11, chapter 12, or chapter 13, the case may be dismissed; or if further administration is possible and in the best interest of the parties, the case may proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred.*

Fed. R. Bankr. P. 1016 (emphasis added).

Initially, Daniel Sanchez had not filed amended Schedules I and J. The Chapter 13 Trustee responded to the Motion stating that additional information was necessary to approve of the motion. Subsequently, the debtor has filed amended Schedules I and J in

support of his performance of the Chapter 13 Plan. These amended schedules were not properly filed or served. The Chapter 13 trustee has reviewed the amended schedule, indicates the plan payments were not current, and opposes the motion. Status Report, ECF No. 45.

Debtor has replied to the trustee's opposition stating he has paid the delinquent amount of \$362.00. Further, he states that his family has elected to contribute \$1,000 a month until the completion of his bankruptcy to allow debtor to remain in the home. Response, ECF No. 48.

Wavier of Post-Petition Education Requirement

In most case, individual chapter 13 debtors must complete a post-petition personal financial management course to receive a discharge. 11 U.S.C. 1328(g)(1).

The court shall not grant a discharge under this section to a debtor unless after filing petition the debtor has completed an instruction course concerning personal financial management described in section 111.

Section 111(a)(1) states:

The clerk shall maintain a publicly available list of (1) nonprofit budget and credit counseling agencies that provide 1 or more services described in section 109(h) currently approved by the United States trustee...

Section 109(h) provides:

The requirements of paragraph (1) shall not apply with respect to a *debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone*. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and "disability" means *that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1)*.

11 U.S.C. § 109(h)(4) (emphasis added).

Death is a disability within the meaning of § 109(h)(4). The court will waive the education requirement for Philana Sanchez.

CIVIL MINUTE ORDER

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

Daniel Sanchez's motion has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is denied;

IT IS FURTHER ORDERED that (1) Daniel is the representative of Philana Sanchez and is substituted in her place and stead; (2) as to Philana Sanchez the post-petition education requirement is waived, 11 U.S.C. s 109(h); and (3) as to Philana Sanchez the certifications required by 11 U.S.C. § 1328 are waived; and

IT IS FURTHER ORDERED that continued administration is not appropriate and, notwithstanding the other rulings in the case, that portion of the motion seeking continued administration is denied.

10. [19-27409](#)-A-13 **IN RE: NIKOLAY/NATALIA AKIMOV**
[DPC-2](#)

MOTION TO DISMISS CASE
2-19-2025 [[62](#)]

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: March 11, 2025

Opposition Filed: February 20, 2025 - timely

Cause: 11 U.S.C. § 1307(c)(1), (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 \$7,245.96. The plan is in month 64 of a 60-month plan, therefore, no further payments will come due prior to the date of the hearing.

The debtor has filed a timely opposition which is accompanied by the Declaration of the Debtor, ECF Nos. 66 & 67. 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. 67.

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.

11. [24-24010](#)-A-13 **IN RE: DENNIS POTOCZNY**
[SMJ-1](#)

MOTION TO CONFIRM PLAN
2-11-2025 [\[36\]](#)

SCOTT JOHNSON/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Granted

Order: Prepared by the movant, approved by the trustee

Subject: First Amended Chapter 13 Plan, filed February 11, 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 first Amended Chapter 13 Plan, ECF No. 36. The plan is supported by Schedules I and J filed February 11, 2025, ECF No. 42. The Chapter 13 trustee has filed a non-opposition to the motion, ECF No. 43.

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.

12. [19-20511](#)-A-13 **IN RE: JON/HEATHER CARROLL**
[DPC-2](#)

MOTION TO DISMISS CASE
2-25-2025 [\[46\]](#)

GABRIEL LIBERMAN/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.

Tentative Ruling

Motion: Dismiss Case

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

Disposition: Granted

Order: Civil minute order

Opposition Due: March 11, 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 \$770.00 with one payment(s) of \$385.00 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.

13. [24-22416](#)-A-13 **IN RE: REYNALDO TABOT**
[EJV-3](#)

MOTION TO EXTEND TIME
2-12-2025 [\[58\]](#)

ERIC GRAVEL/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

14. [24-22416](#)-A-13 **IN RE: REYNALDO TABOT**
[EJV-4](#)

MOTION TO CONFIRM PLAN
2-12-2025 [\[62\]](#)

ERIC GRAVEL/ATTY. FOR DBT.
TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Motion to Confirm Plan

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

Disposition: Denied without prejudice

Order: Civil minute order

Debtor seeks an order confirming the Chapter 13 plan. A motion to confirm a Chapter 13 plan must be noticed to all creditors, the Chapter 13 trustee and the United States Trustee. See Fed. R. Bankr. P. 2002(a), 9034. After the claims bar date, the notice may be limited to creditors that have filed claims, Chapter 13 trustee and the United States Trustee. FRBP 2002(h); LBR 2002-3. It is the

debtor's burden to prove appropriate service and notice. Here, the debtor has failed to demonstrate proper notice.

SERVICE AND NOTICE

As of November 1, 2022, the court adopted Local Bankruptcy Rules 2002-3, 9036-1 and 7005-1 (requiring attorneys and trustees to use a standardized Certificate of Service, EDC 7-005).

The form certificate of service is intended to allow parties to memorialize service efficiently and accurately, and to aid the court in ensuring sufficient service is achieved in each proceeding.

Matrix

Where the Clerk's Matrix of Creditors is attached to the Certificate of Service form, *such list shall be downloaded not more than 7 days prior to the date of serving the pleadings and other documents and shall reflect the date of downloading.* The serving party may download that matrix either in "pdf label format" or in "raw data format." Where the matrix attached is in "raw data format," signature on the Certificate of Service is the signor's representation that no changes, e.g., additions, deletions, modifications, of the data have been made except: (1) formatting of existing data; or (2) removing creditors from that list by the method described in paragraph (c) of this rule.

LBR 7005-1(d) (emphasis added).

In this case the matrix attached to the certificate of service is dated November 1, 2024. See Certificate of Service, ECF No. 65. Service of the motion occurred on February 12, 2025. *Id.* The matrix is dated more than 7 days prior to the date of service of the motion and therefore does not comply with LBR 7005-1. The notice is stale due to the utilization of a matrix that is over 90 days old. 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:

Debtor's Motion to Confirm Plan 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

15. [25-20016](#)-A-13 **IN RE: MATTHEW MCCANDLESS**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
2-26-2025 [\[40\]](#)

PETER MACALUSO/ATTY. FOR DBT.

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to June 10, 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 June 10, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than April 15, 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 May 13, 2025. The evidentiary record will close after May 13, 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.

16. [25-20016](#)-A-13 **IN RE: MATTHEW MCCANDLESS**
[EAT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY WELLS FARGO BANK, N.A.
1-29-2025 [\[17\]](#)

PETER MACALUSO/ATTY. FOR DBT.
CASSANDRA RICHEY/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 June 10, 2025, at 9:00 a.m.

Order: Civil minute order

Creditor, Wells Fargo Bank, N.A., 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 June 10, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than April 15, 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 May 13, 2025. The evidentiary record will close after May 13, 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).

17. [24-22019](#)-A-13 **IN RE: KIMBERLY NICHOLAS AND SANFORD**
NICKERSON
[BLL-1](#)

MOTION TO CONFIRM PLAN
2-10-2025 [\[71\]](#)

RICHARD HALL/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

Debtor seeks an order confirming the Chapter 13 plan. A motion to confirm a Chapter 13 plan must be noticed to all creditors, the Chapter 13 trustee and the United States Trustee. See Fed. R. Bankr. P. 2002(a), 9034. After the claims bar date, the notice may be limited to creditors that have filed claims, Chapter 13 trustee and the United States Trustee. FRBP 2002(h); LBR 2002-3. It is the debtor's burden to prove appropriate service and notice. Here, the debtor has failed to demonstrate proper notice.

NOTICE

As of November 1, 2022, the court adopted Local Bankruptcy Rules 2002-3, 9036-1 and 7005-1 (requiring attorneys and trustees to use a standardized Certificate of Service, EDC 7-005).

The form certificate of service is intended to allow parties to memorialize service efficiently and accurately, and to aid the court in ensuring sufficient service is achieved in each proceeding.

Matrix

Where the Clerk's Matrix of Creditors is attached to the Certificate of Service form, *such list shall be downloaded not more than 7 days prior to the date of serving the pleadings and other documents and shall reflect the date of downloading.* The serving party may download that matrix either in "pdf label format" or in "raw data format." Where the matrix attached is in "raw data format," signature on the Certificate of Service is the signor's representation that no changes, e.g., additions, deletions, modifications, of the data have been made except: (1) formatting of existing data; or (2) removing creditors from that list by the method described in paragraph (c) of this rule.

LBR 7005-1(d) (emphasis added).

In this case the matrix attached to the certificate of service is not dated. See Certificate of Service, Attachment 6A-1, ECF No. 76. Accordingly, service of the motion does not comply with LBR 7005-1. 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:

Debtor's Motion to Confirm Plan 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.

18. [23-22221](#)-A-13 **IN RE: BRIAN COELHO AND YESENIA AMAYA**
[DPC-1](#)

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

STEVEN ALPERT/ATTY. FOR DBT.

Final Ruling

Motion: Dismiss Case

Notice: Continued from February 19, 2025

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). The debtor has filed non-opposition stating they do not oppose the dismissal. 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 \$6,932.00 with one payment(s) of \$2,313.00 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.

Debtors had opposed this motion and filed a motion to modify their existing plan. ECF Nos. 27 & 31. However, after the change in circumstances listed in the debtors' non-opposition, they are no longer opposing the motion to dismiss. Non-Opposition, ECF No. 45.

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.

19. [23-22221](#)-A-13 **IN RE: BRIAN COELHO AND YESENIA AMAYA**
[PLG-1](#)

MOTION TO MODIFY PLAN
2-5-2025 [\[31\]](#)

STEVEN ALPERT/ATTY. FOR DBT.

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied

Order: Civil minute order

The motion requests modification of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1325, 1329; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(2). The Chapter 13 trustee opposes the motion, objecting to the modification.

Chapter 13 plan modification is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. “[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge’s discretion and good judgment in reviewing the motion to modify.” *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

The trustee states that Debtor would need to increase the play payments from the proposed amount of \$2,479.00 to approximately \$3,1700.00 to be feasible. The debtor has filed non-opposition to the motion to dismiss stating “[i]n light of the trustee’s opposition to the Debtors’ Motion to Confirm First Modified Plan, in light of the fact that Debtors learned today that it will take much longer than previously expected to resolve the issue with claim #12, and in light of the Debtors’ pending divorce, Debtors have decided to let this bankruptcy case get dismissed”. Non-Opposition, ECF No. 45. Thus, the debtors have conceded on the merits of this case. Accordingly, the court finds that the plan does not comply with the requirements of 11 U.S.C. §§ 1325(a)(1), 1322(a)(2) and will deny the motion.

CIVIL MINUTE ORDER

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

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

The debtor’s motion to modify 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. The court denies modification of the chapter 13 plan.

20. [24-22522](#)-A-13 **IN RE: AMRIT LAL**
[DPC-2](#)

MOTION TO DISMISS CASE
2-5-2025 [\[67\]](#)

ANH NGUYEN/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

21. [24-24824](#)-A-13 **IN RE: EDWARD ROTTER AND TIFFANY**
KEETON-FARRIOR
[DWL-1](#)

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

PATRICIA WILSON/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: Continued from February 19, 2025

Disposition: Withdrawn

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 opposes the motion, objecting to confirmation.

WITDRAWAL OF MOTION

Fed. R. Civ. P. 41

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).

The trustee has opposed this motion to confirm. Therefore, the motion may be withdrawn "only by court order, on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2). The court deems this withdrawal as proper. No unfair prejudice will result from withdrawal of the motion and the court will accede to the debtors' 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 confirm is withdrawn.

22. [24-20027](#)-A-13 **IN RE: RASUL SHEVCHENKO**
[MS-2](#)

MOTION TO USE CASH COLLATERAL
3-7-2025 [[64](#)]

MARK SHMORGON/ATTY. FOR DBT.

No Ruling

23. [24-25328](#)-A-13 **IN RE: DENIS GARCIA**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
1-14-2025 [[17](#)]

JAMES KEENAN/ATTY. FOR DBT.
DEBTOR DISMISSED: 03/06/25

Final Ruling

This case was dismissed on March 6, 2025. Accordingly, the objection will be removed from the calendar as moot. No appearances are required.

24. [24-25328](#)-A-13 **IN RE: DENIS GARCIA**
[SKI-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY CARMAX
BUSINESS SERVICES, LLC
1-13-2025 [\[12\]](#)

JAMES KEENAN/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.
DEBTOR DISMISSED: 03/06/25

Final Ruling

This case was dismissed on March 6, 2025. Accordingly, the objection will be removed from the calendar as moot. No appearances are required.

25. [20-21929](#)-A-13 **IN RE: THOMAS/LAURETTA HALL**
[CYB-5](#)

MOTION TO WAIVE SECTION 1328 CERTIFICATE REQUIREMENT,
CONTINUE CASE ADMINISTRATION, SUBSTITUTE PARTY, AS TO DEBTOR
3-11-2025 [\[91\]](#)

CANDACE BROOKS/ATTY. FOR DBT.

Tentative Ruling

Motion: Substitution of Representative, Continued Administration,
Waiver of Personal Financial Management and Waiver of Certifications

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

Disposition: Granted

Order: Civil minute order

Debtor Lauretta Hall prays appointment of a personal representative, substitution of the representative, continued administration, waiver of the post-petition education requirement and the § 1328 certification for her now deceased spouse Thomas Hall.

DISCUSSION

Suggestion of Death

When a chapter 13 debtor dies, counsel for the debtor shall file a Suggestion of Death.

Notice of Death. In a bankruptcy case which has not been closed, a *Notice of Death of the debtor* [Fed. R. Civ. P. 25(a), Fed. R. Bankr. P. 7025] shall be filed within sixty (60) days of the death of a debtor by the counsel for the deceased debtor or the person who intends to be appointed as the representative for or successor to a deceased debtor. The Notice of Death shall be served on the trustee, U.S. Trustee, and all

other parties in interest. *A copy of the death certificate (redacted as appropriate) shall be filed as an exhibit to the Notice of Death.*

LBR 1016-1(a) (emphasis added); see also, Fed. R. Civ. P. 25(a), incorporated by Fed. R. Bank. P. 7025, 9014(c).

Here, Debtor's counsel acknowledges that the Notice of Death has not been filed timely within the 60-day period. However, since this error causes no prejudice to creditors or parties in interest, the court will not deny the motion on this basis. The Notice of Death has since been filed. Exhibit A, ECF No. 95.

Substitution of Representative

Upon the death of the debtor, a personal representative for the debtor must be substituted as the real party in interest.

An action must be prosecuted in the name of the real party in interest. The following may sue in their own names without joining the person for whose benefit the action is brought: (A) an executor; (B) an administrator; (C) a guardian; (D) a bailee; (E) a trustee of an express trust; (F) a party with whom or in whose name a contract has been made for another's benefit; and (G) a party authorized by statute.

Fed. R. Civ. P. 17(a), incorporated by Fed. R. Bankr. P. 7017, 9014(c) (emphasis added).

Where the debtor dies during the administration of a chapter 13 case, the action is not abated, and administration shall continue. Fed. R. Bankr. P. 1016. But a representative for the now deceased debtor needs to be appointed. And that appointment process is implemented by Rule 25(a).

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25, incorporated by Fed. R. Bankr. P. 7025, 9014(c) and LBR 1016-1(a).

The applicant Laretta Hall is the spouse of the deceased debtor and is also a co-debtor in this Chapter 13 proceeding. Thomas Hall died on July 17, 2024, and this motion for appointment of a representative was filed on March 11, 2025. Similarly to the Notice of Death, the motion to substitute was not filed timely within the 90-day statutory period. However, since this error causes no prejudice to creditors or parties in interest, the court will not deny the motion on this basis.

Continued Administration

Continued administration on behalf of a deceased chapter 13 debtor is discretionary.

Death or incompetency of the debtor shall not abate a liquidation case under chapter 7 of the Code. In such event the estate shall be administered, and the case concluded in the same manner, so far as possible, as though the death or incompetency had not occurred. *If a reorganization, family farmer's debt adjustment, or individual's debt adjustment case is pending under chapter 11, chapter 12, or chapter 13, the case may be dismissed; or if further administration is possible and in the best interest of the parties, the case may proceed and be concluded in the same manner, so far as possible, as though the death or incompetency had not occurred.*

Fed. R. Bankr. P. 1016 (emphasis added).

The debtor Laurretta Hall requests the continued administration of her Chapter 13 case according to the plan. The Chapter 13 trustee shows all filed claims have been paid 100% and January 2025 was the 57th and final month of the plan. For this reason, administration is possible and in the best interest of the estate.

Wavier of Post-Petition Education Requirement

In most case, individual chapter 13 debtors must complete a post-petition personal financial management course to receive a discharge. 11 U.S.C. 1328(g) (1).

The court shall not grant a discharge under this section to a debtor unless after filing petition the debtor has completed an instruction course concerning personal financial management described in section 111.

Section 111(a) (1) states:

The clerk shall maintain a publicly available list of (1) nonprofit budget and credit counseling agencies that provide 1 or more services described in section 109(h) currently approved by the United States trustee..

Section 109(h) provides:

The requirements of paragraph (1) shall not apply with respect to a *debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone.* For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing

and making rational decisions with respect to his financial responsibilities; and "disability" means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).

11 U.S.C. § 109(h) (4) (emphasis added).

Death is a disability within the meaning of § 109(h) (4). The court will waive the education requirement for Thomas Hall.

CIVIL MINUTE ORDER

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

Debtor's motion has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is the motion is granted; and

IT IS FURTHER ORDERED that (1) Laretta Hall is the representative of Thomas Hall and is substituted in his place and stead; (2) continued administration is appropriate; (3) as to Thomas Hall the post-petition education requirement is waived, 11 U.S.C. s 109(h); and (4) as to Thomas Hall the certifications required by 11 U.S.C. § 1328 are waived.

26. [24-22031](#)-A-13 **IN RE: ELIZABETH MALKIN**
[MRL-3](#)

MOTION TO SELL
2-21-2025 [\[50\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.

Tentative Ruling

Motion: Sell Property [Real Property]

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

Disposition: Granted

Order: Prepared by moving party pursuant to the instructions below and approved as to form and content by the Chapter 13 trustee

Property: 7912 Tanana River Court, Citrus Heights, California

Buyer: Edgar Leal

Sale Price: \$400,000

Sale Type: Private sale

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).

Confirmation of a Chapter 13 plan revests property of the estate in the debtor unless the plan or order confirming the plan provides otherwise. 11 U.S.C. § 1327(b); see also *In re Tome*, 113 B.R. 626, 632 (Bankr. C.D. Cal. 1990).

Here, the subject property is not property of the estate because the debtor's confirmed plan provides that property of the estate revests in debtor upon confirmation of the plan. See Chapter 13 Plan, ECF No. 3. However, the confirmed plan obligates the debtor to obtain court authorization prior to transferring property, so the plan provides the basis for the court's authority to decide whether to approve the sale.

The order shall be approved by the Chapter 13 trustee as to form and content. Additionally, the order shall contain language requiring the Chapter 13 trustee to approve the escrow instructions for the sale.

27. [23-20433](#)-A-13 **IN RE: EDMUNDO/SARINA MARTELL**
[DPC-2](#)

MOTION TO DISMISS CASE
2-14-2025 [\[48\]](#)

GEVA BAUMER/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Dismiss Case

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

Disposition: Continued to April 15, 2025, at 9:00 a.m.

Order: Civil minute order

Opposition Due: March 11, 2025

Opposition Filed: March 3, 2025- timely

Motion to Modify Plan Filed: March 3, 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. The trustee contends that the debtor is delinquent in the amount of \$6,025.30, with two payment(s) of \$5,508.43 due prior to the hearing date on this motion.

A modified plan has been timely filed and set for hearing in this case. The scheduled hearing on the modification is April 15, 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 April 15, 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.

28. [24-22634](#)-A-13 **IN RE: SUHMER FRYER**
[PGM-1](#)

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

PETER MACALUSO/ATTY. FOR DBT.

Tentative Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied

Order: Civil minute order

The motion requests modification of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1325, 1329; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(2). The Chapter 13 trustee opposes the motion, objecting to the modification.

Chapter 13 plan modification is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

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 Delinquency

The trustee indicates that the plan payments are delinquent in the amount of \$530. The plan cannot be confirmed if the plan payments are not current.

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. Nor 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.

LIQUIDATION

The debtor has not filed an amended Schedule C in response to the sustained objection to exemptions. The court sustained the trustee's objection to debtor's exemptions. Order, ECF No. 132. The debtor utilized two different sets of exemptions on her Amended Schedule C, ECF No. 104. All exemptions listed were under C.C.P. § 704 except for "Clothes" which was listed as C.C.P. § 703.140(b)(3). This adds non-exempt equity of \$6,000.

Liquidation

(a) Except as provided in subsection (b), the court shall confirm a plan if--

. . .

(4) the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the estate of the debtor were liquidated under chapter 7 of this title on such date;

. . .

11 U.S.C. § 1325(a)(4).

Without the properly amended schedule, the court and the chapter 13 trustee are unable to determine if the plan passes the liquidation test. See 11 U.S.C. § 1325(a)(4).

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 modify 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. The court denies modification of the chapter 13 plan.

29. [25-20134](#)-A-13 **IN RE: BRIAN FOUST**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
3-4-2025 [\[17\]](#)

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 June 10, 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 June 10, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than April 15, 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

May 13, 2025. The evidentiary record will close after May 13, 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.

30. [25-20134](#)-A-13 **IN RE: BRIAN FOUST**
[JCW-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY BRIDGECREST CREDIT
COMPANY, LLC
3-6-2025 [\[25\]](#)

JENNIFER WONG/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 June 10, 2025, at 9:00 a.m.

Order: Civil minute order

Creditor, Bridgecrest Credit Company, LLC, objects to confirmation of the debtor(s) plan.

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

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

CIVIL MINUTE ORDER

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

IT IS ORDERED that the hearing on this objection will be continued to June 10, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than April 15, 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 May 13, 2025. The evidentiary record will close after May 13, 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).

31. [25-20134](#)-A-13 **IN RE: BRIAN FOUST**
[KMM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY CITIBANK, N.A.
3-5-2025 [\[21\]](#)

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 June 10, 2025, at 9:00 a.m.

Order: Civil minute order

Creditor, Citibank, N.A., 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 June 10, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than April 15, 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 May 13, 2025. The evidentiary record will close after May 13, 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).

32. [24-24235](#)-A-13 **IN RE: GARY/MICHELLE WHITAKER**
[CK-2](#)

MOTION TO CONFIRM PLAN
1-29-2025 [\[47\]](#)

CATHERINE KING/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Denied

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 opposes the motion, objecting to 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).

Schedules I and J

The debtor has not supported the plan by filing recently amended Schedules I and J. The most recently filed budget schedules were filed on November 4, 2024, nearly 4 months ago, ECF No. 25. Without current income and expense information the court and the chapter 13 trustee are unable to determine whether the plan modification is feasible or whether the plan has been proposed in good faith. See 11 U.S.C. § 1325(a)(3), (6).

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. The court denies confirmation of the chapter 13 plan.

33. [24-24235](#)-A-13 **IN RE: GARY/MICHELLE WHITAKER**
[DPC-1](#)

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

CATHERINE KING/ATTY. FOR DBT.

No Ruling

34. [24-22437](#)-A-13 **IN RE: ROBERT STANLEY**
[DPC-3](#)

MOTION TO DISMISS CASE
2-14-2025 [[57](#)]

MARY TERRANELLA/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

35. [24-24939](#)-A-13 **IN RE: NICHOLE PIKE**
[DPC-1](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
2-14-2025 [[50](#)]

RHONDA WALKER/ATTY. FOR DBT.

No Ruling

36. [22-23240](#)-A-13 **IN RE: PATRICK/RAMONA HARRISON**
[DPC-1](#)

MOTION TO DISMISS CASE
2-13-2025 [[39](#)]

NICHOLAS WAJDA/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

37. [25-20140](#)-A-13 **IN RE: KAREN JOHNSON**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
3-3-2025 [\[31\]](#)

DAVID FOYIL/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 June 10, 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 June 10, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than April 15, 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 May 13, 2025. The evidentiary record will close after May 13, 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. [25-20140](#)-A-13 **IN RE: KAREN JOHNSON**
[FWP-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY JOSEPH J. BAMBINO,
TRUSTEE OF THE BAMBINO FAMILY TRUST
3-6-2025 [\[39\]](#)

DAVID FOYIL/ATTY. FOR DBT.
THOMAS PHINNEY/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 June 10, 2025, at 9:00 a.m.

Order: Civil minute order

Creditor, Joseph J. Bambino, Trustee of the Bambino Family Trust, objects to confirmation of the debtor(s) plan.

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

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

CIVIL MINUTE ORDER

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

IT IS ORDERED that the hearing on this objection will be continued to June 10, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than April 15, 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 May 13, 2025. The evidentiary record will close after May 13, 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).

39. [25-20140](#)-A-13 **IN RE: KAREN JOHNSON**
[FWP-2](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
3-11-2025 [\[45\]](#)

DAVID FOYIL/ATTY. FOR DBT.
THOMAS PHINNEY/ATTY. FOR MV.
JOSEPH J. BAMBINO, TRUSTEE OF THE BAMBINO FAMILY TRUST VS.

Tentative Ruling

Motion: Stay Relief
Disposition: Denied as moot
Order: Civil minute order

Petition filed: January 14, 2025

Previous case pending within one year: *In re Karen D. Johnson*, Case No. 23-22825-A-13, E.D. Cal. Bankr. (2023), filed August 20, 2023, dismissed December 19, 2024

The moving party seeks relief from the automatic stay. This case, however, is subject to the Bankruptcy Code provisions that terminate or negate the stay in cases involving repeat individual bankruptcy filers. See 11 U.S.C. § 362(c)(3)-(4).

Upon request of a party in interest, the court may extend the automatic stay where the debtor has had one previous bankruptcy case that was pending within the 1-year period prior to the filing of the current bankruptcy case but was dismissed. See 11 U.S.C. § 362(c)(3)(B). In such a case, the automatic stay may be extended only if both notice and the hearing on such motion are "completed before the expiration of" the 30-day period after the filing of the petition in the latter case. 11 U.S.C. § 362(c)(3)(B). Otherwise, if notice and the hearing are not completed before the end of the 30-day period, "the automatic stay terminates in its entirety 30 days after the petition date for a repeat filer." *In re Reswick*, 446 B.R. 362, 365, 371-73 (B.A.P. 9th Cir. 2011).

The debtor has had a previous case pending within the one-year period prior to the filing of this case and such case was dismissed. The petition in this case was filed on January 14, 2024. The motion to extend the stay was filed on January 24, 2025, ECF No. 15. The motion was denied on February 6, 2025, ECF No. 30. Accordingly, the automatic stay terminated 30 days after the petition date. See 11 U.S.C. § 362(c)(3)(A). 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:

Joseph J. Bambino's Motion for Stay Relief has been presented to the court. Having considered the motion together with papers filed in support and opposition, and having heard the arguments of counsel, if any,

IT IS ORDERED that the motion is denied as moot. The court confirms that the automatic stay has terminated in this case.

40. [24-20344](#)-A-13 **IN RE: RANDY HOWARD**
[RTD-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-5-2025 [[101](#)]

PETER MACALUSO/ATTY. FOR DBT.
ROXANNE DANERI/ATTY. FOR MV.
SACRAMENTO CREDIT UNION VS.
TRUSTEE NON-OPPOSITION

No Ruling

41. [24-25544](#)-A-13 **IN RE: MARTIN ZERMENO**
[DPC-2](#)

MOTION TO DISMISS CASE
2-25-2025 [[62](#)]

MICHAEL HAYS/ATTY. FOR DBT.

Final Ruling

This matter will be removed from the calendar as moot. This case was converted to a Chapter 7 on March 19, 2025. No appearances are necessary.

42. [24-25544](#)-A-13 **IN RE: MARTIN ZERMENO**
[MOH-1](#)

CONTINUED MOTION TO VALUE COLLATERAL OF WILMINGTON TRUST,
NATIONAL ASSOCIATION
12-23-2024 [[15](#)]

MICHAEL HAYS/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

This matter will be removed from the calendar as moot. This case was converted to a Chapter 7 on March 19, 2025. No appearances are necessary.

43. [24-25445](#)-A-13 **IN RE: TIMIKA WINSTON**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
1-15-2025 [[15](#)]

JONATHAN VAKNIN/ATTY. FOR DBT.

No Ruling

44. [24-25147](#)-A-7 **IN RE: EDWARD/MARLYN GARCIA**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
1-8-2025 [[20](#)]

CATHERINE KING/ATTY. FOR DBT.
CASE CONVERTED: 02/27/25

Final Ruling

This matter will be removed from the calendar as moot. This case was converted to a Chapter 7 on February 27, 2025. No appearances are necessary.

45. [25-20247](#)-A-13 **IN RE: KRYSTINE/ERIC FERRIS**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
3-5-2025 [\[30\]](#)

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 June 10, 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 June 10, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than April 15, 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 May 13, 2025. The evidentiary record will close after May 13, 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. [25-20247](#)-A-13 **IN RE: KRYSTINE/ERIC FERRIS**
[SKI-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TD BANK, N.A.
2-27-2025 [\[25\]](#)

MICHAEL HAYS/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.

Final Ruling

Objection: Creditor's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to June 10, 2025, at 9:00 a.m.

Order: Civil minute order

Creditor, TD Bank, N.A., 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 June 10, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than April 15, 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 May 13, 2025. The evidentiary record will close after May 13, 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).

47. [23-23949](#)-A-13 **IN RE: TANGELA BABBITT**
[DPC-3](#)

MOTION TO DISMISS CASE
2-14-2025 [[122](#)]

MARK SHMORGON/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: March 11, 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 \$1,287.00 with two payment(s) of \$432.00 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.

48. [24-25349](#)-A-13 **IN RE: RODNEY TAVARES**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
1-15-2025 [\[13\]](#)

MARK BRIDEN/ATTY. FOR DBT.

Final Ruling

Matter: Objection to Confirmation of Chapter 13 Plan
Notice: LBR 3015-1(c)(4); no written opposition required
Disposition: Overruled as moot
Order: Civil minute order

Chapter 13 debtors may modify the plan before confirmation. 11 U.S.C. § 1323(a). If the debtor files a modification of the plan under § 1323, the modified plan becomes the plan. 11 U.S.C. § 1323(b). Filing a modified plan renders moot any objection to confirmation of the prior plan. The debtor has filed a modified plan after this objection to confirmation was filed. The objection will be overruled as moot.

CIVIL MINUTE ORDER

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

IT IS ORDERED that the objection to confirmation is overruled as moot.

49. [23-22652](#)-A-13 **IN RE: WESLEY VANBUSKIRK**
[DPC-1](#)

MOTION TO DISMISS CASE
2-13-2025 [\[24\]](#)

SETH HANSON/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: March 11, 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 \$2,983.01 with two payment(s) of \$1,000.00 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.

50. [24-22754](#)-A-13 **IN RE: MY TRAN**
[DPC-4](#)

MOTION TO DISMISS CASE AND/OR MOTION TO CONVERT CASE FROM
CHAPTER 13 TO CHAPTER 7
2-12-2025 [\[82\]](#)

PETER MACALUSO/ATTY. FOR DBT.
DEBTOR DISMISSED: 03/11/25
DEBTOR NON-OPPOSITION

Final Ruling

This case was dismissed on March 11, 2025. Accordingly, the motion will be removed from the calendar as moot. No appearances are required.

51. [24-24257](#)-A-13 **IN RE: JAIME ARMENDARIZ**
[PGM-1](#)

MOTION TO CONFIRM PLAN
2-18-2025 [\[36\]](#)

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

52. [25-21057](#)-A-13 **IN RE: REGINA JARROTT-BRIGGS**
[MS-1](#)

MOTION TO VALUE COLLATERAL OF ONEMAIN FINANCIAL GROUP, LLC
3-11-2025 [\[8\]](#)

MARK SHMORGON/ATTY. FOR DBT.

Tentative Ruling

Motion: Value Collateral [Personal Property; Motor Vehicle]

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

Disposition: Granted

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). The default of the respondent 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).

VALUATION OF COLLATERAL

Chapter 13 debtors may value collateral by noticed motion. Fed. R. Bankr. P. 3012. Section 506(a) of the Bankruptcy Code provides, "An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" and is unsecured as to the remainder. 11 U.S.C. § 506(a). For personal property, value is defined as "replacement value" on the date of the petition. *Id.* § 506(a)(2). For "property acquired for personal, family, or household purposes, replacement value shall mean 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." *Id.* The costs of sale or marketing may not be deducted. *Id.*

A debtor's ability to value collateral consisting of a motor vehicle is limited by the terms of the hanging paragraph of § 1325(a). See 11 U.S.C. § 1325(a) (hanging paragraph). Under this statute, a lien secured by a motor vehicle cannot be stripped down to the collateral's value if: (i) the lien securing the claim is a purchase money security interest, (ii) the debt was incurred within the 910-day period preceding the date of the petition, and (iii) the motor vehicle was acquired for the debtor's personal use. 11 U.S.C. § 1325(a) (hanging paragraph).

In this case, the debtor seeks to value collateral consisting of a motor vehicle described as a 2012 Ford Fusion SEL Sedan. The debt owed to the respondent is not secured by a purchase money security interest. See 11 U.S.C. § 1325(a) (hanging paragraph). The court values the vehicle at \$2,000.00.

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 value collateral consisting of a motor vehicle 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 personal property collateral described as a 2012 Ford Fusion SEL Sedan has a value of \$2,000.00. No senior liens on the collateral have been identified. The respondent has a secured claim in the amount of \$2,000.00 equal to the value of the collateral that is unencumbered by senior liens. The respondent has a general unsecured claim for the balance of the claim.

53. [25-21057](#)-A-13 **IN RE: REGINA JARROTT-BRIGGS**
[MS-2](#)

MOTION TO EXTEND AUTOMATIC STAY
3-11-2025 [\[12\]](#)

MARK SHMORGON/ATTY. FOR DBT.

No Ruling

54. [24-25158](#)-A-13 **IN RE: DIANE GARCIA**

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK
TRUST NATIONAL ASSOCIATION
1-9-2025 [\[29\]](#)

HARRY ROTH/ATTY. FOR DBT.
DAVID COATS/ATTY. FOR MV.
DEBTOR DISMISSED: 02/06/25

Final Ruling

This case was dismissed on February 6, 2025. Accordingly, the objection will be removed from the calendar as moot. No appearances are required.

55. [24-25158](#)-A-13 **IN RE: DIANE GARCIA**
[DPC-2](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID CUSICK
1-8-2025 [\[25\]](#)

HARRY ROTH/ATTY. FOR DBT.
DEBTOR DISMISSED: 02/06/25

Final Ruling

This case was dismissed on February 6, 2025. Accordingly, the objection will be removed from the calendar as moot. No appearances are required.

56. [24-24159](#)-A-13 **IN RE: HARRY/CAROL CHAFFEE**
[JTK-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-12-2025 [\[29\]](#)

LE'ROY ROBERSON/ATTY. FOR DBT.
TERENCE KILPATRICK/ATTY. FOR MV.
KAMALJIT TAKHAR VS.
TRUSTEE NON-OPPOSITION

No Ruling

57. [24-24660](#)-A-13 **IN RE: CRAIG PAINTER**
[RAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-10-2025 [\[44\]](#)

DAVID COATS/ATTY. FOR MV.
U.S. BANK TRUST NATIONAL ASSOCIATION VS.
DEBTOR DISMISSED: 03/10/25

Final Ruling

This case was dismissed on March 10, 2025. Accordingly, the motion will be removed from the calendar as moot. No appearances are required.

58. [24-25260](#)-A-13 **IN RE: MARK NULL**
[DPC-1](#)

AMENDED OBJECTION TO CONFIRMATION OF PLAN BY DAVID CUSICK
2-21-2025 [\[25\]](#)

TIMOTHY WALSH/ATTY. FOR DBT.

Tentative Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: Continued from February 4, 2025

Disposition: Sustained and confirmation denied

Order: Civil minute order

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).

Unfair Discrimination

"[T]he nature of student loans as nondischargeable is not, by itself, a reasonable basis for giving them preferential treatment." *In re Sperna*, 173 B.R. 654 (B.A.P. 9th Cir. 1994). Thus, a plan unfairly discriminates against other unsecured classes by separately classifying and treating differently an unsecured claim for a student loan based solely on the fact that the claim is nondischargeable. Therefore, the plan may not be confirmed so long as there is preferential treatment of specific unsecured creditors.

In this instant case, the debtor has filed the schedules necessary. Schedule J, ECF No. 1, 32: 21, shows a student loan payment in the amount of \$993.00. Class 7 of the debtor's plan does not provide for direct payment of any unsecured claims and provides that unsecured claims will receive no less than 0%. Chapter 13 Plan, ECF No. 3.

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.

59. [24-25260](#)-A-13 **IN RE: MARK NULL**
[KSH-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY ALLY BANK
12-26-2024 [\[13\]](#)

TIMOTHY WALSH/ATTY. FOR DBT.
KRISTIN SCHULER-HINTZ/ATTY. FOR MV.

Final Ruling

Objection: Creditor's Objection to Confirmation of Plan

Notice: Continued from February 4, 2025

Disposition: Sustained and confirmation denied

Order: Civil minute order

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).

On February 4, 2025, the court ordered:

IT IS ORDERED that the hearing on this objection will be continued to March 25, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than February 18, 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 4, 2025. The evidentiary record will close after March 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. 23, (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 default of the debtor is entered.

Insufficient Interest Rate

The plan's interest rate on a secured claim should be evaluated under the principles established in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). The court in *Till* held that the "prime-plus or formula rate best comports with the purposes of the Bankruptcy Code." *Till*, 541 U.S. at 480.

The *Till* Court found that "[i]t is sufficient for our purposes to note that, under 11 U.S.C. § 1325(a)(6), a court may not approve a plan unless, after considering all creditors' objections and receiving the advice of the trustee, the judge is persuaded that 'the debtor will be able to make all payments under the plan and to comply with the plan.' Together with the cramdown provision, this requirement obligates the court to select a rate high enough to compensate the creditor for its risk but not so high as to doom the plan. If the court determines that the likelihood of default is so high as to necessitate an 'eye-popping' interest rate, the plan probably should not be confirmed." *Id.* (citations omitted).

"The appropriate size of that risk adjustment depends, of course, on such factors as the circumstances of the estate, the nature of the security, and the duration and feasibility of the reorganization plan." *Id.* at 479. Without deciding the issue of the proper scale of the risk adjustment, the plurality opinion noted that other courts have generally approved upward adjustments of 1% to 3% to the interest rate. See *id.* at 480.

Here, the plan provides for an interest rate of 6% on the objecting creditor's class 2 secured claim. The court takes judicial notice of the prime rate of interest as published in a leading newspaper. *Bonds, Rates & Credit Markets: Consumer Money Rates*, Wall St. J., March 20, 2025, http://online.wsj.com/mdc/public/page/mdc_bonds.html. Fed. R. Bankr. P. 201(b)(2).

The appropriate interest rate should be about 1% to 2% above the current prime rate given the nature of the security, the risk of default, and the lack of evidence submitted by the creditor that would warrant upward adjustment. Thus, the plan's proposed interest rate does not comply with *Till* and § 1325(a)(5)'s present value requirement. The proper interest rate on this class 2 claim should be at least 9.5%.

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.

Ally Bank'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.

60. [21-22861](#)-A-13 **IN RE: MEGAN EKOMAYE**
[BLG-4](#)

MOTION FOR COMPENSATION BY THE LAW OFFICE OF BANKRUPTCY LAW
GROUP, PC FOR CHAD M JOHNSON, DEBTORS ATTORNEY(S)
2-12-2025 [\[115\]](#)

CHAD JOHNSON/ATTY. FOR DBT.
DEBTOR DISMISSED: 01/24/25

Final Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

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

Disposition: Approved

Order: Civil minute order

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this application was required not less than 14 days before the hearing on the application. 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).

COMPENSATION AND EXPENSES

In this Chapter 13 case, Bankruptcy Law Group, PC, has applied for an allowance of final compensation and reimbursement of expenses. The applicant requests that the court allow compensation in the amount of \$2,952.50 and reimbursement of expenses in the amount of \$35.52.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a debtor's attorney in a Chapter 13 case and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1), (4)(B). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

The court finds that the compensation and expenses sought are reasonable, and the court will approve the application on a final basis.

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.

Bankruptcy Law Group, PC's application for allowance of final compensation and reimbursement of expenses 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 application,

IT IS ORDERED that the application is approved on a final basis. The court allows final compensation in the amount of \$2,952.50 and reimbursement of expenses in the amount of \$35.52. The aggregate allowed amount equals \$2,988.02.

IT IS FURTHER ORDERED that the trustee is authorized to pay the fees allowed by this order from the available funds of the plan in a manner consistent with the terms of the confirmed plan.

61. [24-22164](#)-A-13 **IN RE: JOHN/KIMBERLY MCCABE**
[TLA-2](#)

MOTION TO CONFIRM PLAN
2-3-2025 [\[63\]](#)

THOMAS AMBERG/ATTY. FOR DBT.
RESPONSIVE PLEADING

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 February 3, 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. 65. The plan is supported by Schedules I and J filed, February 3, 2025, ECF No. 69. The Chapter 13 trustee has filed a non-opposition to the motion, ECF No. 70.

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.

62. [23-21765](#)-A-7 **IN RE: RAUL/SONIA GUTIERREZ**
[DPC-1](#)

MOTION TO DISMISS CASE
2-14-2025 [\[32\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.
CASE CONVERTED: 03/10/25

Final Ruling

This matter will be removed from the calendar as moot. This case was converted to a Chapter 7 on March 10, 2025. No appearances are necessary.

63. [25-20166](#)-A-13 **IN RE: YONG CHI**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
2-24-2025 [\[32\]](#)

MARK WOLFF/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 June 10, 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 June 10, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than April 15, 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 May 13, 2025. The evidentiary record will close after May 13, 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.

64. [24-20667](#)-A-13 **IN RE: CHRISTOPHER HIGGINBOTHAM**
[DPC-2](#)

MOTION TO DISMISS CASE
2-14-2025 [\[43\]](#)

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: March 11, 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 \$4,222.29 with two payment(s) of \$2,105.81 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.

65. [19-24669](#)-A-13 **IN RE: RAMON CAPARAS**
[DPC-2](#)

MOTION TO DISMISS CASE
2-25-2025 [[165](#)]

ARASTO FARASAD/ATTY. FOR DBT.
DAVID CUSICK/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

66. [23-23170](#)-A-13 **IN RE: DANA DANIELS**
[CYB-1](#)

MOTION TO INCUR DEBT
3-10-2025 [\[21\]](#)

CANDACE BROOKS/ATTY. FOR DBT.

Tentative Ruling

Motion: Approve New Debt [Vehicle Loan]

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

Disposition: Granted

Order: Prepared by moving party

Subject Vehicle: 2022 Chevrolet Blazer LT

Purchase Price of Vehicle: Not to exceed \$28,038.21

Interest Rate: Not to exceed 7%

Total Down Payment: Not to exceed \$5,400

Maximum Monthly Payment: Not to exceed \$477.67

Term of Loan: 72 months

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 debtor seeks to incur new debt to finance the purchase of a vehicle. 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. 26. The court will grant the motion, and the trustee will approve the order as to form and content.

67. [24-22071](#)-A-13 **IN RE: RAYMOND/MELISSA UNBANKES**
[DPC-2](#)

MOTION TO DISMISS CASE
2-14-2025 [\[28\]](#)

SETH HANSON/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: March 11, 2025

Opposition Filed: March 10, 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 \$6,130.28, with two payment(s) of \$3,076.76 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. 33 & 34. 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. 34.

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.

68. [24-25471](#)-A-13 **IN RE: WENDY ROBINSON**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
1-15-2025 [\[20\]](#)

PETER MACALUSO/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Sustained and confirmation denied

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 opposes the motion, objecting to 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 Delinquency

The trustee indicates that the plan payments are delinquent in the amount of \$6,121.64. The plan cannot be confirmed if the plan payments are not current.

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.

69. [24-25771](#)-A-13 **IN RE: WILLIAM/FRANCES MEROSHNEKOFF**
[FF-11](#)

MOTION TO SET ASIDE
3-6-2025 [[96](#)]

GARY FRALEY/ATTY. FOR DBT.

No Ruling

70. [23-23672](#)-A-13 **IN RE: NAWAL BSHARAH**
[CEP-5](#)

MOTION FOR COMPENSATION FOR CLAY E. PRESLEY, DEBTORS
ATTORNEY(S)
2-15-2025 [[148](#)]

CLAY PRESLEY/ATTY. FOR DBT.
DEBTOR DISMISSED: 07/03/24

No Ruling

71. [24-22673](#)-A-13 **IN RE: ANNA ALMONTE**
[RDW-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-24-2025 [[40](#)]

ERIC SCHWAB/ATTY. FOR DBT.
REILLY WILKINSON/ATTY. FOR MV.
UMPQUA BANK VS.
RESPONSIVE PLEADING

No Ruling

72. [24-23175](#)-A-13 **IN RE: DAVID FRIAS**
[DPC-2](#)

MOTION TO DISMISS CASE
2-14-2025 [\[50\]](#)

CHAD JOHNSON/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Dismiss Case

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

Disposition: Continued to May 28, 2025, at 9:00 a.m.

Order: Civil minute order

Opposition Due: March 11, 2025

Opposition Filed: **March 9, 2025** - timely

Motion to Modify Plan Filed: March 11, 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. The trustee contends that the debtor is delinquent in the amount of \$34,940.00, with two payment(s) of \$2,385.00 due prior to the hearing date on this motion.

A modified plan has been timely filed and set for hearing in this case. The scheduled hearing on the modification is May 28, 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 May 28, 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.

73. [24-21076](#)-A-13 **IN RE: JENNIFER BOSS**
[DPC-1](#)

MOTION TO DISMISS CASE
2-13-2025 [\[31\]](#)

MIKALAH LIVIAKIS/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: March 11, 2025

Opposition Filed: March 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 \$1,786.00, with two payment(s) of \$893.00 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. 35 & 36. 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. 36.

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.

74. [24-20078](#)-A-13 **IN RE: FLOREECE JOHNSON**
[DPC-1](#)

MOTION TO DISMISS CASE
2-13-2025 [\[20\]](#)

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: March 11, 2025

Opposition Filed: March 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 \$4,385.00, with two payment(s) of \$1,857.00 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. 24 & 25. The debtor's declaration states that the debtor believes she has brought the plan payment current by the date of the hearing on this motion. See Declaration, ECF No. 25.

The opposition does not fully resolve the grounds for dismissal. A delinquency may still exist 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.

75. [24-22678](#)-A-13 **IN RE: ALAN/MEGAN KENNEDY**
[DPC-2](#)

CONTINUED MOTION TO DISMISS CASE AND/OR MOTION TO CONVERT
CASE FROM CHAPTER 13 TO CHAPTER 7
12-27-2024 [\[43\]](#)

ERIC SCHWAB/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

76. [24-22678](#)-A-13 **IN RE: ALAN/MEGAN KENNEDY**
[EJS-1](#)

MOTION TO CONFIRM PLAN
1-21-2025 [\[51\]](#)

ERIC SCHWAB/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Confirm Chapter 13 Plan

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

Disposition: Denied

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 opposes the motion, objecting to 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 Delinquency

The trustee indicates that the plan payments are delinquent in the amount of \$43.00. The plan cannot be confirmed if the plan payments are not current.

Schedules I and J

The debtor has not supported the plan through the recently amended Schedules I and J. Schedules I and J state \$4,238.00 is being contributed to "Daughters Special Housing/Tuition" without explanation for the increase in expense. Without further explanation regarding income and expense information the court and the chapter 13 trustee are unable to determine whether the plan is feasible or whether the plan has been proposed in good faith. See 11 U.S.C. § 1325(a) (3), (6).

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. The court denies confirmation of the chapter 13 plan.

77. [24-22678](#)-A-13 **IN RE: ALAN/MEGAN KENNEDY**
[LFB-3](#)

MOTION TO DISMISS CASE
2-25-2025 [\[61\]](#)

ERIC SCHWAB/ATTY. FOR DBT.
ANERIO ALTMAN/ATTY. FOR MV.
RESPONSIVE PLEADING

No Ruling

78. [24-25879](#)-A-13 **IN RE: MICHAEL OOSTERMAN**
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
2-7-2025 [\[17\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.
TD BANK, N.A. VS.

Final Ruling

Motion: Stay Relief

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

Disposition: Granted

Order: Civil minute order

Subject: 2018 Lincoln Navigator

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).

Movant acquired the subject property pre-petition on November 18, 2024. The debtor has not listed the vehicle in any schedules or in the confirmed plan.

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.

TD Bank, N.A.'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 2018 Lincoln Navigator, 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.

79. [25-20087](#)-A-13 **IN RE: MOSES/TARA MENDOZA**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
2-26-2025 [\[15\]](#)

MARK WOLFF/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 June 10, 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 June 10, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than April 15, 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 May 13, 2025. The evidentiary record will close after May 13, 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.

80. [24-24888](#)-A-13 **IN RE: ANGELA BEASLEY**

MOTION TO CONFIRM PLAN
2-10-2025 [\[64\]](#)

GORDON BONES/ATTY. FOR DBT.
WITHDRAWN BY M.P.

Final Ruling

The Motion was withdrawn by the moving party on March 5, 2025, ECF No. 72. Accordingly, this matter will be removed from the calendar as moot. No appearances are required.

81. [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

82. [23-23797](#)-A-13 **IN RE: MICHAEL/AMY WHITING**
[DPC-2](#)

MOTION TO DISMISS CASE
2-14-2025 [\[50\]](#)

THOMAS AMBERG/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

83. [24-24597](#)-A-13 **IN RE: AYANNA SPIKES**
[DPC-3](#)

MOTION TO DISMISS CASE
2-18-2025 [\[34\]](#)

PETER MACALUSO/ATTY. FOR DBT.

Final Ruling

Motion: Dismiss Case

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

Disposition: Continued to April 15, 2025, at 9:00 a.m.

Order: Civil minute order

Opposition Due: March 11, 2025

Opposition Filed: March 11, 2025- timely

Motion to Modify Plan Filed: March 11, 2025 - timely

The chapter 13 trustee moves to dismiss this case, asserting that cause exists under § 1307(c)(1) stating that there is no plan pending confirmation since the objection to confirmation on December 17, 2024.

A modified plan has been timely filed and set for hearing in this case. The scheduled hearing on the modification is April 15, 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 April 15, 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.

84. [22-21299](#)-A-13 **IN RE: DAMON TURNER**
[DPC-7](#)

MOTION TO DISMISS CASE
2-14-2025 [[122](#)]

MATTHEW DECAMINADA/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: March 11, 2025

Opposition Filed: March 11, 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 \$4,336.25, with one payment(s) of \$4,336.25 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. 129 & 130. 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. 130.

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.