

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Modesto, California

April 1, 2025 at 1:00 p.m.

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1. [24-90506](#)-B-13 BOBBI RODRIQUEZ MOTION FOR RELIEF FROM
[JCW](#)-1 Pro Se AUTOMATIC STAY
2-27-25 [[93](#)]

WILMINGTON SAVINGS FUND
SOCIETY, FSB VS.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

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

The court's decision is to deny the motion.

Wilmington Savings Fund Society, as owner trustee of CSMC 2019-SPL1 Trust, its assignees and/or successors, by and through its servicing agent Rushmore Servicing ("Movant") seeks relief from the automatic stay with respect to real property commonly known as 317 Oakshire Ave, Modesto, California (the "Property"). Movant has provided the Declaration of Alexis Valdez to introduce into evidence the documents upon which it bases the claim and the obligation secured by the Property.

The Valdez Declaration states that there are two post-petition payments representing December 2024 and January 2025 that are in default totaling \$3,023.93. By the time this matter is heard, additional payments for February and March 2025 will be due.

Opposition was filed by pro se debtor Bobbi Rodriguez ("Debtor"), stating that she will pay Movant directly by March 31, 2025, to cure the post-petition delinquencies. Debtor states that she has also made payments to the Chapter 13 Trustee's office to cover the delinquency in plan payments, which includes pre-petition arrearages owed to Movant. Separately, Debtor states that she was provided an application for a loan modification on March 14, 2025, after months of reaching out to Movant for this application and that she will be fully employed starting March 31, 2025, making it more likely for her to qualify for a loan modification.

Lastly, Debtor asserts that the value of her home is \$430,000 based on a broker's opinion, which would give Debtor \$250,000 in equity in light of the \$370,000 value used by Movant. However, a review of Schedules A/B and C filed by Debtor shows a value of \$370,000. Dkts. 54, 66.

Movant uses the same \$370,000 valuation of Debtor's home for purposes of its motion. See dkt. 96. Using this valuation, and considering the amount Movant asserts the Debtor owes of \$179,750.33, there is equity in the Debtor's home of approximately

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\$190,249.67 which is an equity cushion of 51.42%. The Ninth Circuit has held that an equity cushion of at least 20% adequately protects a secured creditor's interest in real property, even in the absence of payments. *Pistole v. Mellor (In re Mellor)*, 734 F.2d 1396, 1400-01 (9th Cir. 1984). Therefore, at least for now, Movant is more than adequately protected.

Additionally, Debtor asserts that granting relief from the automatic stay would cause severe hardship since her 83-year-old father resides in an ADU on the property and a significant amount of equity will be lost.

Given Debtor's assertion that she is/will be current on pre- and post-petition payments owed to Movant, that there is a loan modification in process, that Debtor will be gainfully employed, and that there is a significant equity cushion of over two times the amount the Ninth Circuit considers to be adequate protection, the motion will be denied.

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

The court will issue an order.

2. [23-90112](#)-B-13 JOSEPH/NICOLE HEMINGWAY MOTION TO MODIFY PLAN
[CDL](#)-2 Colby D. LaVelle 2-8-25 [[51](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtors have filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

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

The court will issue an order.

Final Ruling

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

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

The court's decision is to not confirm the first amended plan.

First, the Debtor is \$6,566.00 delinquent in plan payments to the Chapter 13 Trustee. The next scheduled payment of \$3,283.00 is due on March 25, 2025. The case was filed on December 3, 2024. The Debtor has paid \$0.00 into the Plan to date.

Second, Debtor's plan classifies GoodLeap LLC as a Class 4 claim with a monthly contract installment of \$263.88. The contract installment does not appear on Debtor's amended Schedule J. Because of this, feasibility of the plan cannot be determined. 11 U.S.C. § 1325(a)(6).

Third, Debtor's Amended Schedule I at line 8a includes income from operating a business at \$1,000.00 a month. The Attachment to Schedule I which provides for Debtor's business income and expenses needs to be filed. Without this document, it cannot be determined whether Debtor's plan is feasible and pays all projected disposable income for the applicable commitment period to Debtor's general unsecured creditors. 11 U.S.C. §§ 1325(a)(6), (b)(1).

Fourth, the plan at paragraph 3.06 fails to state the monthly dividend payable for attorney fees.

Fifth, the plan provides for Shellpoint Mortgage as a Class 1 claim with a post-petition mortgage payment of \$1,859.00. However, Shellpoint has filed a proof of claim listing a post-petition mortgage payment of \$2,041.84. The Trustee estimates a monthly plan payment of \$3,444.00 is required to fund the plan within the 60-month plan term. Debtor has proposed a plan payment of only \$3,283.00. Therefore, Debtor's plan is not feasible as proposed.

The amended plan does not comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is not confirmed.

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

The court will issue an order.

Final Ruling

The *initial* Chapter 13 Plan filed January 28, 2025, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to April 8, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, the plan provides for payments to creditors for a period longer than 5 years. 11 U.S.C. § 1322(d). Paragraph 2.01 of Debtors' plan provides for a monthly plan payment of \$2,900.00. Debtors have failed to provide admissible evidence that their plan is mathematically feasible.

Second, Class 1 creditor LoanCare has filed its proof of claim. As the on-going mortgage payment and the pre-petition arrears have come in higher than listed, the plan payment is not feasible. Based on the monthly dividends needed and the on-going mortgage payment increase, the plan payment would need to be at least \$3,110.00 per month to fund.

Third, Debtors have filed an amended schedule C and have utilized both C.C.P. § 703 exemptions and § 704 exemptions. Debtors should file an amended schedule C to correct this. Additionally, Debtors have amended schedule C to exempt their personal injury claim. However, Debtors did not specify an actual amount exempted. At present time it is unknown if the personal injury award will include nonpersonal injury damages, such as property damage, which would not be exempt. The total amount listed for the personal injury claim is \$300,000.00, and this amount may not be necessary for the support of the Debtor or the Debtor's dependents. C.C.P. 704.140(b). This objection may be resolved with agreed-upon language provided in the order confirming plan.

Fourth, Debtors have not provided the Trustee with the requested Class 1 Checklist.

Debtors have filed an amended *Disclosure of Compensation of Attorney for Debtor(s)*, Form 2030, on March 28, 2025, resolving this issue raised by the Trustee.

For the first through fourth reasons stated above, the objection to confirmation is conditionally sustained.

Conditional Nature of this Ruling

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

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on April 8, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on April 8, 2025, at 1:00 p.m.

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

The court will issue an order.

5. [24-90756](#)-B-13 DONALD CANNELL AMENDED MOTION TO CONFIRM PLAN
[JBR](#)-2 Jennifer B. Reichhoff 2-18-25 [[36](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

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

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

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

The court will issue an order.

6. [24-90197](#)-B-13 CHRISTOPHER/LISA MEDINA MOTION TO MODIFY PLAN
[FAT](#)-1 Flor De Maria A. Tataje 2-18-25 [[31](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtors have filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

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

The court will issue an order.