



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

April 1, 2024 at 1:30 p.m.

Unless otherwise ordered, all matters before the Honorable Christopher M. Klein shall be simultaneously: (1) **In Person**, at Sacramento Courtroom #35, (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 **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>. 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 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:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. 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 medical 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.

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

April 1, 2024 at 1:30 p.m.

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1. [23-22805](#)-C-13 DANIIIL SERYY MOTION FOR RELIEF FROM
[KMM](#)-1 Mark Shmorgon AUTOMATIC STAY
2-26-24 [[26](#)]
TOYOTA LEASE TRUST VS.

Final Ruling: No appearance at the April 1, 2024 hearing is required.

The Motion has been set on Local Rule 9014-1(f) (1) procedure which requires 28 days' notice. The Proof of Service shows that 36 days' notice was provided. Dkt. 31.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion for Relief from the Automatic Stay is granted.

Toyota Lease Trust, as serviced by Toyota Motor Credit Corporation ("Movant") filed this Motion seeking relief from the automatic stay as to the debtor's 2022 Toyota Highlander (the "Property").

Movant argues cause for relief from stay exists pursuant to 11 U.S.C. § 362(d) (1) because the debtor is delinquent 3 postpetition payments in the amount of \$1,082,08 under the current lease agreement. Declaration, Dkt. 30. Movant further argues that cause exists because it has been unable to verify whether the vehicle is insured as required under the lease. *Id.* Movant also argues cause exists pursuant to 11 U.S.C. § 362(d) (2) because under the lease agreement the debtor has no equity in the property and the Property continues to depreciate. *Id.*

DISCUSSION

Upon review of the record, the court finds cause for relief from stay exists pursuant to 11 U.S.C. § 362(d) (1) because the debtor is delinquent 3 postpetition payments. The court also finds cause exists pursuant to 11 U.S.C. § 362(d) (2) because the debtor has no equity in the Property and it continues to depreciate while not receiving payments.

No other or additional relief is granted by the court.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Toyota Lease Trust ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Property, under its security agreement, loan documents granting it a lien in the asset identified as a 2022 Toyota Highlander ("Property"), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Property to the obligation secured thereby.

No other or additional relief is granted.

2. [23-23320](#)-C-13 TRINIDAD SANCHEZ OBJECTION TO CLAIM OF LES
[LGT](#)-2 Peter Macaluso SCHWAB TIRE CENTERS OF
CALIFORNIA, INC., CLAIM NUMBER
22-1
2-21-24 [[43](#)]

Tentative Ruling:

The Objection has been set on Local Rule 3007-1(b)(2) procedure which requires 30 days' notice. The Proof of Service shows that 41 days' notice was provided. Dkt. 45.

The Objection to Proof of Claim is sustained, and the claim is disallowed in its entirety.

The Chapter 13 trustee filed this Objection arguing that Proof of Claim, No. 22-1, filed by Les Schwab Tire Centers of California was filed late and should be disallowed.

The deadline for filing proofs of claim in this case is December 4, 2023. Notice of Bankruptcy Filing and Deadlines, Dkt. 12. The Proof of Claim subject to this Objection was filed December 8, 2023.

Based on the evidence before the court, the court finds the creditor's claim was filed untimely. The Objection to the Proof of Claim is sustained, and the claim is disallowed in its entirety.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to Claim filed in this case by the Chapter 13 trustee, Lilian G. Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection to Proof of Claim Number 22-1 of Les Schwab Tire Centers of California is sustained, and the claim is disallowed in its entirety.

3. [24-20353](#)-C-13 BRIAN/LETICIA KAKONYI OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Kristy Hernandez PLAN BY LILIAN G TSANG
3-14-24 [[16](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 19 days' notice was provided. Dkt. 19.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, Lilian Tsang ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that the plan was not filed in good faith because the debtors have a boat loan with Connexus that was not included in neither the Schedule D or the Statement of Financial Affairs

DISCUSSION

The debtor has not explained, or supplied sufficient information relating to, the boat and boat loan with Connexus to assist the Chapter 13 Trustee in determining the feasibility of the plan. The plan has not been filed in good faith because the debtor failed to report the boat and loan in both the Schedule D and Statement of Financial Affairs. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(3).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Lilian Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

4. [23-21562](#)-C-13 EMILIA/EMIL ARDELEAN
[CLH](#)-5 Stephan Brown

MOTION TO CONVERT CASE FROM
CHAPTER 13 TO CHAPTER 7
3-4-24 [[150](#)]

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f) (1) procedure which requires 28 days' notice. The Proof of Service shows that 30 days' notice was provided. Dkt. 159.

The Motion to Convert is ~~XXXXXXXXXX~~.

This Motion to Convert the Chapter 13 bankruptcy case of Emilia and Emil Ardelean ("Debtors") has been filed by Carmelita Mancina and Houria El Massioui ("Movants"), creditors in this case. Movants assert that the case should be dismissed or converted based on the following grounds:

- A. Debtors have filed this case in bad faith and have delayed the case for almost a year;
- B. Debtors cannot propose a confirmable plan based upon the debtors' current schedules;
- C. The plan payments are insufficient to pay the debtors' secured and priority claims; and
- D. Debtors are in violation of 11 U.S.C. § 1324.

DEBTOR'S OPPOSITION

Debtors filed an Opposition on March 18, 2024. Dkt. 165. Debtor states that the motion should be denied for the following reasons:

1. Debtors have filed everything necessary pursuant to § 521 and have done so as quickly as possible;
2. The initial plan was timely filed, but it was Movants aggressive objections that have delayed confirmation;
3. If the current plan is not confirmed, an amended plan that resolves any deficiencies will be filed; and
4. Conversion is not in the best interest of Creditor Mancina because she has represented that she must be paid through a Chapter 13 plan due to her status as a secured creditor.

TRUSTEE'S RESPONSE

The Chapter 13 Trustee filed a response (dkt. 171) on March 25, 2024. The Trustee represents that he debtors are current in plan payments under the current proposed plan. However, the Trustee contends that the debtors' current proposed plan is not confirmable, and she does not believe a plan can be confirmed until the debtors resolve the Movants' significant claims. Finally, the Trustee further represents that conversion to Chapter 7 may be in the best interests of creditors.

MOVANTS' RESPONSE

The Movants filed a response (dkt. 179) on March 25, 2024. Movants contend that their § 1324(b) argument has still not been addressed by the debtors and that debtors are unable to fund a plan that pays Mancia's claim. Movants again assert that conversion is in the best interests of all creditors in this case.

APPLICABLE LAW

Questions of conversion or dismissal must be dealt with a thorough, two-step analysis: "[f]irst, it must be determined that there is 'cause' to act[;] [s]econd, once a determination of 'cause' has been made, a choice must be made between conversion and dismissal based on the 'best interests of the creditors and the estate.'" *Nelson v. Meyer (In re Nelson)*, 343 B.R. 671, 675 (B.A.P. 9th Cir. 2006) (citing *Ho v. Dowell (In re Ho)*, 274 B.R. 867, 877 (B.A.P. 9th Cir. 2002)).

The Bankruptcy Code Provides:

[O]n 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

11 U.S.C. § 1307(c). The court engages in a "totality of circumstances" test, weighing facts on a case-by-case basis and determining whether cause exists, and if so, whether conversion or dismissal is proper. *Drummond v. Welsh (In re Welsh)*, 711 F.3d 1120, 1123 (9th Cir. 2013) (citing *Leavitt v. Soto (In re Leavitt)*, 171 F.3d 1219 (9th Cir. 1999)). Bad faith is one of the enumerated "for cause" grounds under 11 U.S.C. § 1307. *Nady v. DeFrantz (In re DeFrantz)*, 454 B.R. 108, 112 n.4 (B.A.P. 9th Cir. 2011) (citing *In re Leavitt*, 171 F.3d at 1224).

DISCUSSION

At the hearing **xxxxxxxxxx**

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Convert the Chapter 13 case filed by Carmelita Mancia and Houria El Massioui ("a creditor") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Convert is ~~xxxxxxxx~~

5. [23-21562](#)-C-13 EMILIA/EMIL ARDELEAN
[NFS-1](#) Stephan Brown

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
12-29-23 [[103](#)]

LAND HOME FINANCIAL
SERVICES, INC. VS.

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 38 days' notice was provided. Dkt. 109.

The Motion for Relief from the Automatic Stay is XXXXXXXXXX.

Land Home Financial Services, Inc. ("Movant") filed this Motion seeking relief from the automatic stay as to the debtors' real property commonly known as 6035 Glenbrook Lane, Carmichael, California (the "Property").

Movant argues cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtors are delinquent 3 postpetition payments. Declaration, Dkt. 105.

DEBTORS' OPPOSITION

Debtors filed an Opposition on January 22, 2024. Dkt. 125. Debtors assert that the Movant is adequately protected because there is a 59% equity cushion in the property. Debtors further declare that they intend to be current on their payments at the time of the hearing. Declar. Dkt. 126.

At the prior hearings on February 5, 2024 and February 20, 2024, the parties agreed to continue the hearing to allow the debtors' payment to be processed.

DISCUSSION

At the hearing XXXXXXXXXX

Request for Waiver of Fourteen-Day Stay of Enforcement

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests, for no particular reason, that the court grant relief from the Rule as adopted by the United States Supreme Court. With no grounds for such relief specified, the court will not grant additional relief merely stated in the prayer.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this

part of the requested relief is not granted.

No other or additional relief is granted by the court.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Land Home Financial Services, Inc. ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the automatic stay provisions of 11 U.S.C. § 362(a) are ~~xxxxxxx~~

IT IS FURTHER ORDERED that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is not waived for cause.

No other or additional relief is granted.

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 42 days' notice was provided. Dkt. 145.

The Motion to Confirm is denied.

The debtors filed this Motion seeking to confirm the Modified Chapter 13 Plan (Dkt. 144) filed on February 20, 2024.

The Chapter 13 Trustee filed an Opposition (Dkt. 167) on March 19, 2024, opposing confirmation on the following grounds:

1. The plan does not meet the liquidation test;
2. The debtors' supplemental Schedules I and J without an explanation that supports the Schedules;
3. The claims of Land Home Financial Services is misclassified as a Class 4 claim instead of a Class 1 claim;
4. The plan does not provide for the secured claim of Creditor Carmelita Mancia;
5. The plan does not provide for the secured claim of Ally Bank (proof of claim 17-1); and
6. The plan proposes paying attorney fees over a shorter period of time than the local rules allow.

Creditors, Carmelita Mancia and Houria El Massioui ("Creditors"), filed an opposition (Dkt. 161) on March 18, 2024, opposing confirmation on the following grounds:

- A. The debtors are in violation of 11 U.S.C. § 1324(b) because they failed to notice a plan for hearing for more than 9 months after filing their case, and more than 4 months after the conclusion of the Meeting of Creditors;
- B. The plan fails to provide for all secured creditors;
- C. There is no evidence the plan's proposed step up in payments are feasible;
- D. The plan fails the liquidation test; and
- E. The case and plan have been filed in bad faith.

The debtors filed a response (Dkt. 176) on March 25, 2024 conceding that this plan is not confirmable and representing they will be filing a new plan on or before April 8, 2024 that will address the issues raised in the opposition.

DISCUSSION

The debtor has non-exempt assets totaling \$40,122.57. The plan provides for a one percent dividend to unsecured claims, which is less than the four percent dividend necessary to meet the liquidation test. That is cause to deny confirmation. 11 U.S.C. § 1325(a)(4).

The debtor has supplied insufficient information relating to the debtors' income to assist the Chapter 13 Trustee in determining the feasibility of the plan and the proposed step up in plan payments.

The plan, beginning with Section 3.07, requires that all delinquent secured claims that mature after the completion of the plan, must be included as a class 1 claim, and payable through the Trustee. Here, the plan incorrectly classifies the claim of Land Home Financial Services as a class 4 claim when it should be classified as a class 1 claim. That is reason to deny confirmation.

The plan at Section 3.02 provides that Creditor's Proof of Claim, *and not the plan*, determines the amount and classification of a claim.

Notwithstanding whether the plan provides for the secured claims, the debtor has not carried his burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

Upon review of the record, the court finds the plan does not comply with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is denied, and the plan is not confirmed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Confirm filed by the debtors, Emilia Ardelean and Emil Ardelean, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is denied, and the plan is not confirmed.

7. [23-22374](#)-C-13 WILLIE WATSON
[PLC-7](#) Peter Cianchetta

OBJECTION TO CLAIM OF JESSICA
WILLIAMS, CLAIM NUMBER 3
2-15-24 [[161](#)]

Tentative Ruling:

The Objection has been set on Local Rule 3007-1(b) (2) procedure which requires 30 days' notice. The Proof of Service shows that 47 days' notice was provided. Dkt. 165.

The Objection to Proof of Claim is ~~XXXXXXXXXX~~

The Debtor, Willie James Watson, Sr., filed this Objection arguing that Proof of Claim, No. 3, filed by Jessica Williams was filed late and should be disallowed.

The deadline for filing proofs of claim in this case is September 26, 2023. Notice of Bankruptcy Filing and Deadlines, Dkt. 24. The Proof of Claim subject to this Objection was filed October 6, 2024.

OPPOSITION

Creditor, Jessica Williams ("Creditor"), filed an opposition (Dkt. 191) on March 18, 2024, arguing that the Informal Proof of Claim doctrine allows for the late filing of creditor's proof of claim.

Creditor asserts that she filed numerous documents in this case that show the nature and amount of her claim. These filings include: (1) Creditor's opposition to debtor's motion extending the automatic stay dated August 7, 2023; (2) Creditor's supplemental opposition to the motion to extend the automatic stay on August 25, 2023; and (3) Creditor's objection to debtor's motion to confirm plan dated August 31, 2023.

Creditor further asserts that the debtor's July 29, 2023 amended plan and the July 25, 2023 plan at Schedule D lists Creditor as a creditor who has a claim secured by real property resulting from a judgment lien in the amount of \$998,000.00.

DISCUSSION

At the hearing ~~XXXXXXXXXX~~

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to Claim filed in this case by the

debtor, Willie James Watson, Sr., having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection to Proof of Claim Number 3 of Jessica Williams is **XXXXXXXXXXXX**

8. [23-22374](#)-C-13 WILLIE WATSON
[PLC-8](#) Peter Cianchetta

OBJECTION TO CLAIM OF LAVERNE
WILLIAMS, CLAIM NUMBER 4
2-15-24 [[156](#)]

Tentative Ruling:

The Objection has been set on Local Rule 3007-1(b) (2) procedure which requires 30 days' notice. The Proof of Service shows that 47 days' notice was provided. Dkt. 160.

The Objection to Proof of Claim is XXXXXXXXXX

The Debtor, Willie James Watson, Sr., filed this Objection arguing that Proof of Claim, No. 4, filed by Laverne Williams, was filed late and should be disallowed.

The deadline for filing proofs of claim in this case is September 26, 2023. Notice of Bankruptcy Filing and Deadlines, Dkt. 24. The Proof of Claim subject to this Objection was filed October 6, 2024.

OPPOSITION

Creditor, Laverne Williams ("Creditor"), filed an opposition (Dkt. 191) on March 18, 2024, arguing that the Informal Proof of Claim doctrine allows for the late filing of creditor's proof of claim.

Creditor asserts that she filed numerous documents in this case that show the nature and amount of her claim. These filings include: (1) Creditor's opposition to debtor's motion extending the automatic stay dated August 7, 2023; (2) Creditor's supplemental opposition to the motion to extend the automatic stay on August 25, 2023; and (3) Creditor's objection to debtor's motion to confirm plan dated August 31, 2023.

Creditor further asserts that the debtor's July 29, 2023 amended plan and the July 25, 2023 plan at Schedule D lists Creditor as a creditor who has a claim secured by real property resulting from a judgment lien in the amount of \$998,000.00.

DISCUSSION

At the hearing XXXXXXXXXX

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to Claim filed in this case by the debtor, Willie James Watson, Sr., having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection to Proof of Claim
Number 4 of Laverne Williams is **XXXXXXXXXX**