



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

April 15, 2025 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
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1. [24-22054](#)-C-13 WILSON PHAM AND HANG DINH CONTINUED MOTION FOR RELIEF
[DS-1](#) Mark Wolff FROM AUTOMATIC STAY
11-25-24 [[46](#)]
LAKEVIEW LOAN SERVICING, LLC

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 43 days' notice was provided. Dkt. 51.

The Motion for Relief from the Automatic Stay is granted.

Lakeview Loan Servicing, LLC ("Movant") filed this Motion seeking relief from the automatic stay as to the debtors' property commonly known as 7855 Messara Way, Sacramento, CA (the "Property").

Movant argues cause for relief from stay exists pursuant to 11 U.S.C. § 362(d) (1) because the debtors are delinquent three postpetition payments. Declaration, Dkt. 49.

At the prior hearing all parties agreed to continue the matter to allow the debtors to pay the loan modification payments over a few months and confirm a plan. A review of the docket shows that a plan has now been confirmed. Dkt. 91.

DISCUSSION

As noted above, the debtors have now confirmed a plan, and the Confirmed Chapter 13 Plan provides for Movant's claim as a Class 4. Plan, Dkt. 63; Order, Dkt. 91. The Confirmed Plan at section 3.11 states the following with respect the automatic stay and Class 4 claims:

(a) Upon confirmation of the plan, the automatic stay of 11 U.S.C. § 362(a) and the co-debtor stay of 11 U.S.C. § 1301(a) are (1) terminated to allow the holder of a Class 3 secured claim to exercise its rights against its collateral; (2) modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract; and (3) modified to allow the nondebtor party to

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an unexpired lease that is in default and rejected in section 4 of this plan to obtain possession of leased property, to dispose of it under applicable law, and to exercise its rights against any nondebtor.

Id.

Based on the plain language of the Plan, the automatic stay was already modified to allow Movant to enforce its rights with respect to the collateral. Therefore, the relief requested by the Motion is moot.

The court recognizes that creditors may need an order specifying the continuing effect and modification of an automatic stay when state recording and filing law come into play, as well as for title insurance purposes.

The Ninth Circuit Court of Appeal has recognized the basic "discretion is the better part of valor" principle when it comes to the automatic stay. Seeking a separate order clearly specifying the scope of the relief granted in the Plan is not inappropriate.

The court grants the Motion, granting relief that under the terms of the confirmed Chapter 13 Plan, Dkt. 63, in this bankruptcy case, "all bankruptcy stays are modified to allow [Movant, and its agents and successors, as] the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract."

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 Lakeview Loan Servicing, LLC ("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 relief is granted pursuant to the Motion, the court confirming that "all bankruptcy stays are modified to allow [Movant , and its agents and successors, as] the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract." Confirmed Chapter 13 Plan, Dkt. 63; Order Confirming, Dkt. 91.

2. [25-20076](#)-C-13 ROBERT/CHRISTINA
[HLR](#)-1 HERNANDEZ
Kritsy Hernandez

MOTION TO CONFIRM PLAN
3-3-25 [[20](#)]

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 43 days' notice was provided. Dkt. 24.

The Motion to Confirm is denied.

The debtors filed this Motion seeking to confirm the First Amended Chapter 13 Plan (Dkt. 19) filed on February 28, 2025.

The Chapter 13 Trustee filed an Opposition (Dkt. 29) on April 1, 2025, opposing confirmation on the following grounds:

1. Debtor is delinquent on plan payments; and
2. The plan misclassifies the debt of Discover Financial.

DISCUSSION

The debtor is \$1,110.00 delinquent in plan payments. Delinquency indicates that the plan is not feasible and is reason to deny confirmation. See 11 U.S.C. § 1325(a) (6).

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 Discover Financial's claim, 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 and 1325(a). 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, Robert and Christina Hernandez, 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.

3. [24-25578](#)-C-13 WANDA COOPER
[WW-2](#) Mark Wolff

MOTION TO CONFIRM PLAN
3-5-25 [[38](#)]

Final Ruling: No appearance at the April 15, 2025 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 41 days' notice was provided. Dkt. 43.

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 to Confirm is granted.

The debtor filed this Motion seeking to confirm the Amended Chapter 13 Plan (Dkt. 41) filed on March 5, 2025.

No opposition to the Motion has been filed.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322 and 1325(a). The Motion is granted, and the plan is 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 debtor, Wanda Cooper, 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 granted, the debtor's Amended Chapter 13 Plan (Dkt. 41) meets the requirements of 11 U.S.C. §§ 1322 and 1325(a), and the plan is confirmed. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

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 48 days' notice was provided. Dkt. 48.

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 Examination is ~~xxxxxx~~.

Debtor, Wanda Cooper, seeks an order for examination of the debtor by the court why debtor's former attorney, Timothy Walsh, should not be ordered to refund \$2,500.00, which represents fees paid by the debtor less the case filing fee.

Debtor asserts she initially retained her former attorney to file this Chapter 13 case, and made two prepetition payments on November 20, 2024 and December 2, 2024 that totaled \$2,538.00. Debtor represents that her former attorney failed to appear at the Meeting of Creditors and did not contact her after multiple attempts she made to contact her former attorney on the telephone and in person. Additionally, debtor contends that her former attorney failed to forward numerous documents to the Chapter 13 Trustee. Finally, debtor asserts there were multiple problems with petition filed by her former attorney, including not providing for debtor's secured creditors in the plan and incorrectly stating the amount paid to her former attorney.

DISCUSSION

Pursuant to § 329(b), the Court may cancel an agreement for representation in a case under Title 11 between a debtor and attorney that was entered into one year before the filing of a case and order the return of any payment made under that agreement that exceeds the reasonable value of the services provided. 11 U.S.C. § 329(b).

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 Examine filed by Wanda Cooper 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 ~~xxxxxxxxxx~~