UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Ronald H. Sargis
Bankruptcy Judge
Sacramento, California

May 6, 2025 at 2:00 p.m.

1.	**24-24898-E-13** **PGM-1**	**LYNETTE LISTER** **Peter Macaluso**	**CONTINUED MOTION TO CONFIRM PLAN** **3-1-25 [78]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and all creditors and parties in interest on March 1, 2025. By the court's calculation, 38 days' notice was provided. 35 days' notice is required. FED. R. BANKR. P. 2002(a)(9); LOCAL BANKR. R. 3015-1(d)(1).

The Motion to Confirm the Amended Plan has been set for hearing on the notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Opposition having been filed, the court will address the merits of the motion at the hearing. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The hearing on the Motion to Confirm the Amended Plan is xxxxxxx.

MAY 6, 2025 HEARING

The court continued the hearing on this Motion upon the Parties' agreement to work out Trustee's points of opposition. On April 15, 2025, Trustee filed a Status Report. Docket 97. Trustee states although Debtor is current, there is no amended budget on file. There are no pay advices or tax returns provided. Moreover, the IRS claim is still scheduled as priority for $6,400.

On April 29, 2025, Debtor filed a Status Report. Debtor states she has filed a Declaration that she is not required to file taxes. Moreover, Debtor has filed the amended schedules and has provided Trustee with the documents he has requested. Debtor argues that the Plan should be confirmed. At the hearing, **XXXXXXX**

REVIEW OF MOTION

The debtor, Lynette Michelle Lister ("Debtor"), seeks confirmation of the Amended Plan. The Amended Plan provides for Debtor having paid of total of $0.00 thru January 2025 with plan payments of $660.00 per month to commence February 25, 2025 for 57 months. Amended Plan, Docket 80. 11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation.

CHAPTER 13 TRUSTEE'S OPPOSITION

The Chapter 13 Trustee, David Cusick ("Trustee"), filed an Opposition on March 18, 2025. Docket 87. Trustee opposes confirmation of the Plan on the basis that:

A. Debtor is delinquent one plan payment in the amount of $660. *Id.* at 2:1-7.

1. On this point, it appears Debtor has cured the delinquency.

B. Debtor's bankruptcy history of three cases in the previous year show this case is not feasible. *Id.* at 2:10-15.

C. Debtor may be homeless, and Trustee is concerned Debtor living out of her vehicle is not sustainable. *Id.* at 2:17-21.

D. Debtor is missing information other Schedules. For example, she has not disclosed items such as clothing in her Schedule A/B. Moreover, Debtor has not corrected the errors in her previous Schedules that misclassify some creditors as priority and fail to accurately describe others. *Id.* at 2:26-3:8.

E. Finally, Debtor ha not submitted her 11 U.S.C. § 521 documents, including pay stubs and tax returns. *Id.* at 3:10-18.

DEBTOR REPLY

Debtor filed a Reply on April 1, 2025. Docket 91. Debtor states:

1. Counsel subbed in on February 11 on a *pro bono* basis. *Id.* at 1:21-23.

2. Debtor files the case to keep her vehicle, in which she lives. She is current and has stable employment. *Id.* at 1:26-2:2.

3. Debtor will file the necessary Amendments before the hearing on this matter. *Id.* at 2:5-6.

DISCUSSION

Inaccurate or Missing Information

Debtor's Schedules contain outdated or inaccurate information. Without an accurate picture of debtor's financial reality, the court is unable to determine if the Plan is confirmable. *See* 11 U.S.C. § 1325(a)(6). Debtor asserts these documents will be properly amended, but as of the court's review of the Docket on April 3, 2025, no such amendments have been filed.

At the hearing, counsel for the Debtor reported that not all documents have yet been delivered to counsel.

Failure to Provide Pay Stubs / Pay Advices

Debtor has not provided Trustee with employer payment advices for the sixty-day period preceding the filing of the petition as required by 11 U.S.C. § 521(a)(1)(B)(iv); FED. R. BANKR. P. 4002(b)(2)(A). Debtor has failed to provide all necessary pay stubs. That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

Failure to Provide Tax Returns

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(i); FED. R. BANKR. P. 4002(b)(3). Debtor has failed to provide the tax transcript. That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

The court recognizes Debtor's and her counsel's efforts in seeing this case succeed. At the hearing, the Parties agreed to continue the hearing.

The hearing on the Motion to Confirm the Amended Plan is continued to 2:00 p.m. on May 6, 2025.

The court shall issue an 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 the Amended Chapter 13 Plan filed by the debtor, Lynette Michelle Lister ("Debtor") 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 Confirm the Amended Plan is **XXXXXXX**.

2.	**24-24505-E-13** **PGM-1**	**LEON TILLMAN** **Peter Macaluso**	**CONTINUED MOTION TO CONSOLIDATE LEAD CASE 24-24505 WITH 24-25073, MOTION FOR JOINT ADMINISTRATION** **2-14-25 [28]**

ITEMS 2 thru 4

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, creditors, and Office of the United States Trustee on February 14, 2025. By the court's calculation, 39 days' notice was provided. 28 days' notice is required.

The Motion to Substantively Consolidate Case no. 24-25073 with Case no. 24-24505 has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The Motion to Substantively Consolidate Case of Shelley L. Bettencourt-Tillman Bankruptcy Case, No. 24-25073 with the Leon Moses Tillman Chapter 13 Bankruptcy, Case No. 24-24505, Shelley L. Bettencourt-Tillman's spouse, is xxxxxxx.

May 6, 2025 Hearing

The court continued the hearing on this Motion as there were outstanding questions as to how a case with a confirmed plan could be substantively consolidated with a case with no confirmed Plan. Debtor expressed the oppositions of the Chapter 13 Trustees could be resolved. A review of the Docket on April 29, 2025 reveals nothing new has been filed in the case.

At the hearing, **xxxxxxx**

Review of Minimum Pleading Requirements for a Motion

The Supreme Court requires that the motion itself state with particularity the grounds upon which the relief is requested. FED. R. BANKR. P. 9013. The Rule does not allow the motion to merely be a direction to the court to "read every document in the file and glean from that what the grounds should be for the motion." That "state with particularity" requirement is not unique to the Bankruptcy Rules and is also found in Federal Rule of Civil Procedure 7(b).

Consistent with this court's repeated interpretation of Federal Rule of Bankruptcy Procedure 9013, the bankruptcy court in *In re Weatherford*, applied the general pleading requirements enunciated by the United States Supreme Court to the pleading with particularity requirement of Bankruptcy Rule 9013. *See In re Weatherford*, 434 B.R. 644, 646 (N.D. Ala. 2010) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 545 (2007)). The *Twombly* pleading standards were restated by the Supreme Court in *Ashcroft v. Iqbal* to apply to all civil actions in considering whether a plaintiff had met the minimum basic pleading requirements in federal court. *See* 556 U.S. 662 (2009).

Federal Rule of Bankruptcy Procedure 9013 incorporates the "state with particularity" requirement of Federal Rule of Civil Procedure 7(b), which is also incorporated into adversary proceedings by Federal Rule of Bankruptcy Procedure 7007. Interestingly, in adopting the Federal Rules of Civil Procedure and of Bankruptcy Procedure, the Supreme Court endorsed a stricter, state-with-particularity-the-grounds-upon-which-the-relief-is-based standard for motions rather than the "short and plain statement" standard for a complaint.

Law and motion practice in bankruptcy court demonstrates why such particularity is required in motions. Many of the substantive legal proceedings are conducted in the bankruptcy court through the law and motion process. These include sales of real and personal property, valuation of a creditor's secured claim, determination of a debtor's exemptions, confirmation of a plan, objection to a claim (which is a contested matter similar to a motion), abandonment of property from the estate, relief from the automatic stay, motions to avoid liens, objections to plans in Chapter 13 cases (akin to a motion), use of cash collateral, and secured and unsecured borrowing.

The court in *Weatherford* considered the impact to other parties in a bankruptcy case and to the court, holding,

> The Court cannot adequately prepare for the docket when a motion simply states conclusions with no supporting factual allegations. The respondents to such motions cannot adequately prepare for the hearing when there are no factual allegations supporting the relief sought. Bankruptcy is a national practice and creditors sometimes do not have the time or economic incentive to be represented at each and every docket to defend against entirely deficient pleadings. Likewise, debtors should not have to defend against facially baseless or conclusory claims.

In re Weatherford, 434 B.R. at 649–50; *see also In re White*, 409 B.R. 491, 494 (Bankr. N.D. Ind. 2009) (holding that a proper motion must contain factual allegations concerning requirements of the relief sought, not conclusory allegations or mechanical recitations of the elements).

The courts of appeals agree. The Tenth Circuit Court of Appeals rejected an objection filed by a party to the form of a proposed order as being a motion. *St. Paul Fire & Marine Ins. Co. v. Continental Casualty Co.*, 684 F.2d 691, 693 (10th Cir. 1982). The Seventh Circuit Court of Appeals refused to allow a party to use a memorandum to fulfill the pleading with particularity requirement in a motion, stating:

> Rule 7(b)(1) of the Federal Rules of Civil Procedure provides that all applications to the court for orders shall be by motion, which unless made during a hearing or trial, "shall be made in writing, [and] *shall state with particularity the grounds therefor*, and shall set forth the relief or order sought." The standard for "particularity" has been determined to mean "reasonable specification."

Martinez v. Trainor, 556 F.2d 818, 819–20 (7th Cir. 1977) (citing 2-A JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE ¶ 7.05 (3d ed. 1975)).

Not stating with particularity the grounds in a motion can be used as a tool to abuse other parties to a proceeding, hiding from those parties grounds upon which a motion is based in densely drafted points and authorities—buried between extensive citations, quotations, legal arguments, and factual arguments. Noncompliance with Federal Rule of Bankruptcy Procedure 9013 may be a further abusive practice in an attempt to circumvent Bankruptcy Rule 9011 by floating baseless contentions to mislead other parties and the court. By hiding possible grounds in citations, quotations, legal arguments, and factual arguments, a movant bent on mischief could contend that what the court and other parties took to be claims or factual contentions in the points and authorities were "mere academic postulations" not intended to be representations to the court concerning any actual claims and contentions in the specific motion or an assertion that evidentiary support exists for such "postulations."

Here, the Motion makes no legal citations to any authority apart from Fed. R. Civ. P. 42(a). Counsel has made a request for substantive consolidation to this Rule before, and the court informed counsel that this is not the correct Rule under which to bring a substantive consolidation Motion. *See* Case no. 24-25073, Civil Minutes, Docket 33 (explaining in the bankruptcy context, Fed. R. Civ. P. 1015 is the correct Rule under which to bring a substantive consolidation Motion). The Motion does not cite to any other cases, Rules, or statutes in support of moving the court for substantive consolidation. This lack of legal support fails the pleading with particularity standard.

THE MOTION

Debtor Leon M. Tillman, Sr. ("Debtor") has filed a Motion titled "Motion for Substantively Consolidated Case and Joint Administration of Related Cases" which states:

> Debtors are requesting that Shelley L. Bettencourt-Tillman case be joined with Leon Moses Tillman Sr. case and be administered as one case with the schedules and Plan filed with the Court as case #24-24505-E-13C.

Mot. 2:7-11, Docket 28. It appears by this language that the two Debtors desire to substantively consolidate their cases, not merely have them "jointly administered." Joint administration is a term of art referring to cases remaining separate but operating under a single docket number. *See* Fed. R. Bankr. P. 1015. The court has seen counsel use substantive consolidation and joint administration interchangeably on multiple motions now; however, they are distinct procedural concepts and counsel cannot be asking for them both.

TRUSTEE'S OPPOSITION

The Chapter 13 Trustee, David Cusick ("Trustee"), filed an Opposition on March 11, 2025. Docket 32. Trustee states:

> 1. The motion lacks factual information and evidentiary support. The Debtor states that he wants to consolidate his case with his wife's subsequently filed case but fails to state any legal basis to do so and fails to analyze any of the facts or pitfalls associated with doing so. Opp'n 2:4-8.

a. Areas of concern include: Would the wife's creditors be bound by the husband's confirmed plan? There are no facts here that would support revoking the husband's confirmation and that would cause a hardship for his creditors if it were to happen since they might rely on certain aspects of the confirmed plan. *Id.* at 2:11-15.

b. Debtor has not acknowledged that in their current status, the cases cannot be easily consolidated since they are each assigned to different Chapter 13 Trustees. Only the United States Trustee can assign or remove a Chapter 13 Trustee to a case. *Id.* at 2:16-20.

2. There is no evidence in support.

3. There may be a notice issue where the Motion and pleadings were only served on the matrix of creditors and Trustee in this case. *Id.* at 3:8-18.

DEBTOR'S REPLY

Debtor filed a Reply to the Opposition on March 18, 2025. Docket 35. Debtor states:

1. Counsel has reached out to the United States Trustee regarding the consolidation and reassigning the Trustee as each case is assigned to a different one. *Id.* at 1:20-22.

2. The cases were filed identically with no additional creditors, using the same income and expenses. Mr. Tillman is current and recently confirmed. The consolidation of his disabled spouse case into his, is in the best interest of all creditors. *Id.* at 1:23-2:1.

3. Counsel filed two identical motions, one in each case, serving the same creditors and respective Trustees. Each Trustee was not specifically served the other case's Motion, but it should be noted that both Trustee's filed Objections. Counsel would request a continuance if further noticing is needed. *Id.* at 2:5-9.

APPLICABLE LAW

In considering whether a bankruptcy court should consolidate or jointly administer two bankruptcy cases, Fed. R. Bankr. P. 1015 provides:

> (a) CASES INVOLVING SAME DEBTOR. If two or more petitions by, regarding, or against the same debtor are pending in the same court, the court may order consolidation of the cases.
>
> (b) CASES INVOLVING TWO OR MORE RELATED DEBTORS. If a joint petition or two or more petitions are pending in the same court by or against (1) spouses, or (2) a partnership and one or more of its general partners, or (3) two or more general partners, or (4) a debtor and an affiliate, the court may order a joint administration

> of the estates. Prior to entering an order the court shall give consideration to protecting creditors of different estates against potential conflicts of interest. An order directing joint administration of individual cases of spouses shall, if one spouse has elected the exemptions under §522(b)(2) of the Code and the other has elected the exemptions under §522(b)(3), fix a reasonable time within which either may amend the election so that both shall have elected the same exemptions. The order shall notify the debtors that unless they elect the same exemptions within the time fixed by the court, they will be deemed to have elected the exemptions provided by §522(b)(2).
>
> (c) EXPEDITING AND PROTECTIVE ORDERS. When an order for consolidation or joint administration of a joint case or two or more cases is entered pursuant to this rule, while protecting the rights of the parties under the Code, the court may enter orders as may tend to avoid unnecessary costs and delay.

The advisory notes to this Rule states:

> Consolidation of cases implies a unitary administration of the estate and will ordinarily be indicated under the circumstances to which subdivision (a) applies. This rule does not deal with the consolidation of cases involving two or more separate debtors. Consolidation of the estates of separate debtors may sometimes be appropriate, as when the affairs of an individual and a corporation owned or controlled by that individual are so intermingled that the court cannot separate their assets and liabilities. Consolidation, as distinguished from joint administration, is neither authorized nor prohibited by this rule since the propriety of consolidation depends on substantive considerations and affects the substantive rights of the creditors of the different estates.

Notably, "neither part of (Rule 1015) determines when consolidation or joint administration is appropriate, which is a matter of substantive law." 9 COLLIER ON BANKRUPTCY ¶ 1015.01.

Substantive consolidation of assets and liabilities between different entities may be "dealt with as if the assets were held, and the liabilities incurred, by a single entity. This type of consolidation generally is referred to as substantive consolidation. . . The power to consolidate substantively is derived from the court's general equitable powers as set forth in section 105. . ." *Id.* at ¶ 1015.02[3]. The court is also aware that "[t]he power to consolidate should be used sparingly because of the potential harm to creditors of substantive consolidation." *Id.* at ¶ 105.09[1][d] (internal quotations omitted).

The Ninth Circuit has recognized the power of the bankruptcy courts to substantively consolidate cases of two separate debtors as an equitable remedy available to the bankruptcy courts. *See In re Bonham*, 229 F. 3d 750, 763 (9th Cir. 2000) ("The bankruptcy court's power of substantive consolidation has been considered part of the bankruptcy court's general equitable powers since the passage of the Bankruptcy Act of 1898."). When the bankruptcy court finds substantive consolidation is proper and issues an order accordingly, "[t]he consolidated assets create a single fund from which all claims against the consolidated debtors are satisfied; duplicate and inter-company claims are extinguished; and, the creditors of the consolidated entities are combined for purposes of voting on reorganization plans." *Id.* at 764.

The primary purpose of substantive consolidation is to ensure the equitable treatment of all creditors. *Id.* The Ninth Circuit has instructed that "in ordering substantive consolidation, courts must consider whether there is a disregard of corporate formalities and commingling of assets by various entities; and balance the benefits that substantive consolidation would bring against the harms that it would cause." *Id.* at 765. In making a determination of whether to order substantive consolidation, the Ninth Circuit has adopted the test used by the Second Circuit. Bankruptcy courts are to consider "(1) whether creditors dealt with the entities as a single economic unit and did not rely on their separate identity in extending credit; or (2) whether the affairs of the debtor are so entangled that consolidation will benefit all creditors. . . The presence of either factor is a sufficient basis to order substantive consolidation." *Id.* at 766.

The first factor is satisfied when the record shows "lenders structure their loans according to their expectations regarding th[e] borrower and do not anticipate either having the assets of a more sound company available in the case of insolvency or having the creditors of a less sound debtor compete for the borrower's assets." *Id.* (internal quotations omitted). The second factor is met when "the time and expense necessary even to attempt to unscramble [the debtors] [is] so substantial as to threaten the realization of any net assets for all the creditors or where no accurate identification and allocation of assets is possible." *Id.* (internal quotations omitted).

Joint administration is the alternative to consolidation. *See* Fed. R. Bankr. P. 1015(b). A court may appoint a single trustee to jointly administer a case when "the affairs of the related debtors may be sufficiently intertwined to make joint administration more efficient and economical than separate administration. . . Obviously, this can lead to substantial efficiencies and savings of estate funds." 9 COLLIER ON BANKRUPTCY ¶ 1015.03. Fed. R. Bankr. P. 2009 provides for how a trustee should proceed if the court orders joint administration, providing:

> (a) ELECTION OF SINGLE TRUSTEE FOR ESTATES BEING JOINTLY ADMINISTERED. If the court orders a joint administration of two or more estates under Rule 1015(b), creditors may elect a single trustee for the estates being jointly administered, unless the case is under subchapter V of chapter 7 or subchapter V of chapter 11 of the Code.
>
> (b) RIGHT OF CREDITORS TO ELECT SEPARATE TRUSTEE. Notwithstanding entry of an order for joint administration under Rule 1015(b), the creditors of any debtor may elect a separate trustee for the estate of the debtor as provided in §702 of the Code, unless the case is under subchapter V of chapter 7 r subchapter V of chapter 11 of the Code.
>
> (c) APPOINTMENT OF TRUSTEES FOR ESTATES BEING JOINTLY ADMINISTERED.
>
> > (1) *Chapter 7 Liquidation Cases.* Except in a case governed by subchapter V of chapter 7, the United States trustee may appoint one or more interim trustees for estates being jointly administered in chapter 7 cases.
> > . . .
>
> (d) POTENTIAL CONFLICTS OF INTEREST. On a showing that creditors or equity security holders of the different estates will be prejudiced by conflicts of interest of a common trustee who has been elected or appointed, the court shall order the selection of separate trustees for estates being jointly administered.

(e) SEPARATE ACCOUNTS. The trustee or trustees of estates being jointly administered shall keep separate accounts of the property and distribution of each estate.

DISCUSSION

The issue with consolidation as Trustee points out is the practical aspect of consolidating cases when one case has a confirmed Chapter 13 Plan, and in the other, the Debtor not only does not have a confirmed Plan, but the Debtor is extremely delinquent under the terms of the proposed Plan. There is no discussion by Debtor how the cases can be joined at such different and seemingly irreconcilable stages of Chapter 13.

Debtor has provided his Declaration in support. Docket 30. Debtor testifies that they have listed the same properties in their respective schedules. Decl. ¶ 1, Docket 30. Debtor further testifies they have claimed the same exemptions. In the Reply, Debtor comments that the creditors are completely identical.

At the hearing, the Parties addressed several issues to be addressed, with the Debtor believing that given the financial substance of the two cases, opposition to the Motion can be resolved.

The hearing Motion to Substantively Consolidate Case of Shelley L. Bettencourt-Tillman Bankruptcy Case, No. 24-25073 with the Leon Moses Tillman Chapter 13 Bankruptcy, Case No. 24-24505, Shelley L. Bettencourt-Tillman's spouse, is continued to 2:00 p.m. on May 6, 2025.

The court shall issue an 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 for Joint Administration, which the court construes to be a Motion to Substantively Consolidate Case no. 24-25073 with Case no. 24-24505, filed by Shelley L. Bettencourt-Tillman ("Debtor"), 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 Substantively Consolidate Case of Shelley L. Bettencourt-Tillman Bankruptcy Case, No. 24-25073 with the Leon Moses Tillman Chapter 13 Bankruptcy, Case No. 24-24505, Shelley L. Bettencourt-Tillman's spouse, is **XXXXXXX**.

3.	**24-25073-E-13** **PGM-2**	**SHELLEY BETTENCOURT-TILLMAN** **Peter Macaluso**	**CONTINUED MOTION TO CONSOLIDATE LEAD CASE 24-24505 WITH 24-25073, MOTION FOR JOINT ADMINISTRATION** **2-14-25 [46]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, creditors, and Office of the United States Trustee on February 14, 2025. By the court's calculation, 39 days' notice was provided. 28 days' notice is required.

The Motion to Substantively Consolidate Case no. 24-25073 with Case no. 24-24505 has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The hearing Motion to Substantively Consolidate Case of Shelley L. Bettencourt-Tillman Bankruptcy Case, No. 24-25073 with the Leon Moses Tillman Chapter 13 Bankruptcy, Case No. 24-24505, Shelley L. Bettencourt-Tillman's spouse, is xxxxxxx.

May 6, 2025 Hearing

The court continued the hearing on this Motion as there were outstanding questions as to how a case with a confirmed plan could be substantively consolidated with a case with no confirmed Plan. Debtor expressed the oppositions of the Chapter 13 Trustees could be resolved. A review of the Docket on April 29, 2025 reveals nothing new has been filed in the case.

Review Schedule A/B in the Leon Tillman, Sr. Case, there do not appear to be any significant assets that could be separate assets of Mr. Tillman. 24-24505; Dckt. 14. A review of Schedule A/B in the Shelley Bettencourt-Tillman Case is identical to the one in the Leon Tillman, Sr. Case and does not show any significant (if any) separate assets of Mrs. Bettencourt-Tillman. 24-25073; Sch. A/B; Dckt. 1 at 11-16.

It appears that all assets are community property and are in the Leon Tillman, Sr. bankruptcy case, which was filed on October 7, 2024. 11 U.S.C. § 541(a)(2). The Shelley Bettencourt-Tillman Case was subsequently filed on November 7, 2024.

At the hearing, **xxxxxxx**

Review of Minimum Pleading Requirements for a Motion

The Supreme Court requires that the motion itself state with particularity the grounds upon which the relief is requested. FED. R. BANKR. P. 9013. The Rule does not allow the motion to merely be a direction to the court to "read every document in the file and glean from that what the grounds should be for the motion." That "state with particularity" requirement is not unique to the Bankruptcy Rules and is also found in Federal Rule of Civil Procedure 7(b).

Consistent with this court's repeated interpretation of Federal Rule of Bankruptcy Procedure 9013, the bankruptcy court in *In re Weatherford*, applied the general pleading requirements enunciated by the United States Supreme Court to the pleading with particularity requirement of Bankruptcy Rule 9013. *See In re Weatherford*, 434 B.R. 644, 646 (N.D. Ala. 2010) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 545 (2007)). The *Twombly* pleading standards were restated by the Supreme Court in *Ashcroft v. Iqbal* to apply to all civil actions in considering whether a plaintiff had met the minimum basic pleading requirements in federal court. *See* 556 U.S. 662 (2009).

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Law and motion practice in bankruptcy court demonstrates why such particularity is required in motions. Many of the substantive legal proceedings are conducted in the bankruptcy court through the law and motion process. These include sales of real and personal property, valuation of a creditor's secured claim, determination of a debtor's exemptions, confirmation of a plan, objection to a claim (which is a contested matter similar to a motion), abandonment of property from the estate, relief from the automatic stay, motions to avoid liens, objections to plans in Chapter 13 cases (akin to a motion), use of cash collateral, and secured and unsecured borrowing.

The court in *Weatherford* considered the impact to other parties in a bankruptcy case and to the court, holding,

> The Court cannot adequately prepare for the docket when a motion simply states conclusions with no supporting factual allegations. The respondents to such motions cannot adequately prepare for the hearing when there are no factual allegations supporting the relief sought. Bankruptcy is a national practice and creditors sometimes do not have the time or economic incentive to be represented at each and every docket to defend against entirely deficient pleadings. Likewise, debtors should not have to defend against facially baseless or conclusory claims.

In re Weatherford, 434 B.R. at 649–50; *see also In re White*, 409 B.R. 491, 494 (Bankr. N.D. Ind. 2009) (holding that a proper motion must contain factual allegations concerning requirements of the relief sought, not conclusory allegations or mechanical recitations of the elements).

The courts of appeals agree. The Tenth Circuit Court of Appeals rejected an objection filed by a party to the form of a proposed order as being a motion. *St. Paul Fire & Marine Ins. Co. v. Continental Casualty Co.*, 684 F.2d 691, 693 (10th Cir. 1982). The Seventh Circuit Court of Appeals refused to allow a party to use a memorandum to fulfill the pleading with particularity requirement in a motion, stating:

> Rule 7(b)(1) of the Federal Rules of Civil Procedure provides that all applications to the court for orders shall be by motion, which unless made during a hearing or trial, "shall be made in writing, [and] *shall state with particularity the grounds therefor*, and shall set forth the relief or order sought." The standard for "particularity" has been determined to mean "reasonable specification."

Martinez v. Trainor, 556 F.2d 818, 819–20 (7th Cir. 1977) (citing 2-A JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE ¶ 7.05 (3d ed. 1975)).

Not stating with particularity the grounds in a motion can be used as a tool to abuse other parties to a proceeding, hiding from those parties grounds upon which a motion is based in densely drafted points and authorities—buried between extensive citations, quotations, legal arguments, and factual arguments. Noncompliance with Federal Rule of Bankruptcy Procedure 9013 may be a further abusive practice in an attempt to circumvent Bankruptcy Rule 9011 by floating baseless contentions to mislead other parties and the court. By hiding possible grounds in citations, quotations, legal arguments, and factual arguments, a movant bent on mischief could contend that what the court and other parties took to be claims or factual contentions in the points and authorities were "mere academic postulations" not intended to be representations to the court concerning any actual claims and contentions in the specific motion or an assertion that evidentiary support exists for such "postulations."

Here, the Motion makes no legal citations to any authority apart from Fed. R. Civ. P. 42(a). Counsel has made a request for substantive consolidation to this Rule before, and the court informed counsel that this is not the correct Rule under which to bring a substantive consolidation Motion. *See* Civil Minutes, Docket 33 (explaining in the bankruptcy context, Fed. R. Civ. P. 1015 is the correct Rule under which to bring a substantive consolidation Motion). The Motion does not cite to any other cases, Rules, or statutes in support of moving the court for substantive consolidation. This lack of legal support fails the pleading with particularity standard.

THE MOTION

Debtor Shelley L. Bettencourt-Tillman ("Debtor") has filed a Motion titled "Motion for Substantively Consolidated Case and Joint Administration of Related Cases" which states:

> Debtors are requesting that Shelley administered as one case with the schedules and Plan filed with the Court as case #24-24505-E L. Bettencourt-Tillman case be joined with Leon Moses Tillman Sr. case and be-13C.

Mot. 2:7-11, Docket 46.

It appears by this language that the two Debtors desire to substantively consolidate their cases, not merely have them "jointly administered." Joint administration is a term of art referring to cases remaining separate but operating under a single docket number. *See* Fed. R. Bankr. P. 1015.

The court has seen various counsel use substantive consolidation and joint administration interchangeably on multiple motions now; however, they are distinct procedural concepts and counsel cannot be asking for them both.

TRUSTEE'S OPPOSITION

The Chapter 13 Trustee, Lilian Tsang ("Trustee"), filed a Reply styled like an Opposition on February 28, 2025. Docket 54. Trustee states:

1. There are administrative issues regarding the consolidation of an unconfirmed case into a confirmed case and the logistical issues of doing so. It is unclear which proof of claims is to be paid if the two cases are to be consolidated and how to do the accounting for the disbursements that have already been made in Spouse's confirmed chapter 13 case. Opp'n 3:7-10.

2. First, Debtor's Section 341 hearing has not been concluded. Ms. Bettencourt-Tillman has not testified at her section 341 hearing, which has been continued multiple times. *Id.* at 3:10-12.

    a. On this point, the Debtor appeared at the continued Meeting held on March 6, 2025, and the Meeting was continued further to April 2, 2025.

3. Second, Ms. Bettencourt-Tillman has not made a single chapter 13 Plan payment in her bankruptcy case, which has created a substantial delinquency that is not likely to be cured. It is unclear whether Debtor will be able to navigate the gauntlet of a chapter 13 case, make the substantial plan payments, and obtain a discharge. Proposing a "consolidation" with her Spouse's case should not allow Debtor to side-step the confirmation requirements. *Id.* at 3:12-16.

4. Third, the proof of claim filed by the mortgage claim holder shows pre-petition mortgage arrears of $175,625.97, but Ms. Bettencourt-Tillman's Plan proposes to pay only $12,000.00 in prepetition arrears. The significant amount of mortgage arrears renders Debtor's plan infeasible, and therefore consolidation and joint administration with another case is not practicable. *Id.* at 3:17-20.

DEBTOR'S REPLY

Debtor filed a Reply to the Opposition on March 18, 2025. Docket 56. Debtor states:

1. Counsel has reached out to the United States Trustee regarding the consolidation and reassigning the Trustee as each case is assigned to a different one. *Id.* at 1:20-22.

2. The cases were filed identically with no additional creditors, using the same income and expenses. Mr. Tillman is current and recently confirmed. The

consolidation of his disabled spouse case into his, is in the best interest of all creditors. *Id.* at 1:23-2:1.

3. Counsel filed two identical motions, one in each case, serving the same creditors and respective Trustees. Each Trustee was not specifically served the other case's Motion, but it should be noted that both Trustee's filed Objections. Counsel would request a continuance if further noticing is needed. *Id.* at 2:5-9.

APPLICABLE LAW

In considering whether a bankruptcy court should consolidate or jointly administer two bankruptcy cases, Fed. R. Bankr. P. 1015 provides:

> (a) CASES INVOLVING SAME DEBTOR. If two or more petitions by, regarding, or against the same debtor are pending in the same court, the court may order consolidation of the cases.
>
> (b) CASES INVOLVING TWO OR MORE RELATED DEBTORS. If a joint petition or two or more petitions are pending in the same court by or against (1) spouses, or (2) a partnership and one or more of its general partners, or (3) two or more general partners, or (4) a debtor and an affiliate, the court may order a joint administration of the estates. Prior to entering an order the court shall give consideration to protecting creditors of different estates against potential conflicts of interest. An order directing joint administration of individual cases of spouses shall, if one spouse has elected the exemptions under §522(b)(2) of the Code and the other has elected the exemptions under §522(b)(3), fix a reasonable time within which either may amend the election so that both shall have elected the same exemptions. The order shall notify the debtors that unless they elect the same exemptions within the time fixed by the court, they will be deemed to have elected the exemptions provided by §522(b)(2).
>
> (c) EXPEDITING AND PROTECTIVE ORDERS. When an order for consolidation or joint administration of a joint case or two or more cases is entered pursuant to this rule, while protecting the rights of the parties under the Code, the court may enter orders as may tend to avoid unnecessary costs and delay.

The advisory notes to this Rule states:

> Consolidation of cases implies a unitary administration of the estate and will ordinarily be indicated under the circumstances to which subdivision (a) applies. This rule does not deal with the consolidation of cases involving two or more separate debtors. Consolidation of the estates of separate debtors may sometimes be appropriate, as when the affairs of an individual and a corporation owned or controlled by that individual are so intermingled that the court cannot separate their assets and liabilities. Consolidation, as distinguished from joint administration, is neither authorized nor prohibited by this rule since the propriety of consolidation

depends on substantive considerations and affects the substantive rights of the creditors of the different estates.

Notably, "neither part of (Rule 1015) determines when consolidation or joint administration is appropriate, which is a matter of substantive law." 9 COLLIER ON BANKRUPTCY ¶ 1015.01.

Substantive consolidation of assets and liabilities between different entities may be "dealt with as if the assets were held, and the liabilities incurred, by a single entity. This type of consolidation generally is referred to as substantive consolidation. . . The power to consolidate substantively is derived from the court's general equitable powers as set forth in section 105. . ." *Id.* at ¶ 1015.02[3]. The court is also aware that "[t]he power to consolidate should be used sparingly because of the potential harm to creditors of substantive consolidation." *Id.* at ¶ 105.09[1][d] (internal quotations omitted).

The Ninth Circuit has recognized the power of the bankruptcy courts to substantively consolidate cases of two separate debtors as an equitable remedy available to the bankruptcy courts. *See In re Bonham*, 229 F. 3d 750, 763 (9th Cir. 2000) ("The bankruptcy court's power of substantive consolidation has been considered part of the bankruptcy court's general equitable powers since the passage of the Bankruptcy Act of 1898."). When the bankruptcy court finds substantive consolidation is proper and issues an order accordingly, "[t]he consolidated assets create a single fund from which all claims against the consolidated debtors are satisfied; duplicate and inter-company claims are extinguished; and, the creditors of the consolidated entities are combined for purposes of voting on reorganization plans." *Id.* at 764.

The primary purpose of substantive consolidation is to ensure the equitable treatment of all creditors. *Id.* The Ninth Circuit has instructed that "in ordering substantive consolidation, courts must consider whether there is a disregard of corporate formalities and commingling of assets by various entities; and balance the benefits that substantive consolidation would bring against the harms that it would cause." *Id.* at 765. In making a determination of whether to order substantive consolidation, the Ninth Circuit has adopted the test used by the Second Circuit. Bankruptcy courts are to consider "(1) whether creditors dealt with the entities as a single economic unit and did not rely on their separate identity in extending credit; or (2) whether the affairs of the debtor are so entangled that consolidation will benefit all creditors. . . The presence of either factor is a sufficient basis to order substantive consolidation." *Id.* at 766.

The first factor is satisfied when the record shows "lenders structure their loans according to their expectations regarding th[e] borrower and do not anticipate either having the assets of a more sound company available in the case of insolvency or having the creditors of a less sound debtor compete for the borrower's assets." *Id.* (internal quotations omitted). The second factor is met when "the time and expense necessary even to attempt to unscramble [the debtors] [is] so substantial as to threaten the realization of any net assets for all the creditors or where no accurate identification and allocation of assets is possible." *Id.* (internal quotations omitted).

Joint administration is the alternative to consolidation. *See* Fed. R. Bankr. P. 1015(b). A court may appoint a single trustee to jointly administer a case when "the affairs of the related debtors may be sufficiently intertwined to make joint administration more efficient and economical than separate administration. . . Obviously, this can lead to substantial efficiencies and savings of estate funds." 9 COLLIER ON BANKRUPTCY ¶ 1015.03. Fed. R. Bankr. P. 2009 provides for how a trustee should proceed if the court orders joint administration, providing:

(a) ELECTION OF SINGLE TRUSTEE FOR ESTATES BEING JOINTLY ADMINISTERED. If the court orders a joint administration of two or more estates under Rule 1015(b), creditors may elect a single trustee for the estates being jointly administered, unless the case is under subchapter V of chapter 7 or subchapter V of chapter 11 of the Code.

(b) RIGHT OF CREDITORS TO ELECT SEPARATE TRUSTEE. Notwithstanding entry of an order for joint administration under Rule 1015(b), the creditors of any debtor may elect a separate trustee for the estate of the debtor as provided in §702 of the Code, unless the case is under subchapter V of chapter 7 r subchapter V of chapter 11 of the Code.

(c) APPOINTMENT OF TRUSTEES FOR ESTATES BEING JOINTLY ADMINISTERED.

(1) *Chapter 7 Liquidation Cases.* Except in a case governed by subchapter V of chapter 7, the United States trustee may appoint one or more interim trustees for estates being jointly administered in chapter 7 cases.

. . .

(d) POTENTIAL CONFLICTS OF INTEREST. On a showing that creditors or equity security holders of the different estates will be prejudiced by conflicts of interest of a common trustee who has been elected or appointed, the court shall order the selection of separate trustees for estates being jointly administered.

(e) SEPARATE ACCOUNTS. The trustee or trustees of estates being jointly administered shall keep separate accounts of the property and distribution of each estate.

DISCUSSION

The issue with consolidation as Trustee points out is the practical aspect of consolidating cases when one case has a confirmed Chapter 13 Plan, and in the other, the Debtor not only does not have a confirmed Plan, but the Debtor is extremely delinquent under the terms of the proposed Plan. There is no discussion by Debtor how the cases can be joined at such different and seemingly irreconcilable stages of Chapter 13.

Debtor Leon Moses Tillman has provided his Declaration in support. Docket 48. There is no Declaration of Shelley L. Bettencourt-Tillman in support. Mr. Tillman testifies that they have listed the same properties in their respective schedules. Decl. ¶ 1, Docket 30. Mr. Tillman further testifies they have claimed the same exemptions. In the Reply, Debtor comments that the creditors are completely identical.

At the hearing, the Parties addressed several issues to be addressed, with the Debtor believing that given the financial substance of the two cases, opposition to the Motion can be resolved.

The hearing Motion to Substantively Consolidate Case of Shelley L. Bettencourt-Tillman Bankruptcy Case, No. 24-25073 with the Leon Moses Tillman Chapter 13 Bankruptcy, Case No. 24-24505, Shelley L. Bettencourt-Tillman's spouse, is continued to 2:00 p.m. on May 6, 2025.
The court shall issue an 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 for Joint Administration, which the court construes to be a Motion to Substantively Consolidate Case no. 24-25073 with Case no. 24-24505, filed by Shelley L. Bettencourt-Tillman ("Debtor"), 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 Substantively Consolidate Case of Shelley L. Bettencourt-Tillman Bankruptcy Case, No. 24-25073 with the Leon Moses Tillman Chapter 13 Bankruptcy, Case No. 24-24505, Shelley L. Bettencourt-Tillman's spouse, is **xxxxxxx.**

4. 24-25073-E-13 LGT-2 | SHELLEY BETTENCOURT-TILLMAN | Peter Macaluso | CONTINUED MOTION TO DISMISS CASE | 2-19-25 [50]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on February 19, 2025. By the court's calculation, 71 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Motion to Dismiss is ~~granted, and the case is dismissed.~~

The Chapter 13 Trustee, Lilian G. Tsang ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Shelley L. Bettencourt-Tillman ("Debtor"), has failed to commence making plan payments. Debtor has failed to make payments due under the plan. As of February 19, 2025, payments are delinquent in the amount of $6,700.00. Mot. 2:8-9, Docket 50.

2. Debtor failed to appear and testify at the continued 341 Meeting of Creditors on February 06, 2025. Mot. 2:4-5.

3. Debtor failed to set a modified plan for hearing with notice to creditors. *Id.* at 2:6-7.

Trustee submitted her own Declaration to authenticate the facts alleged in the Motion. Decl., Docket 52.

DEBTOR'S RESPONSE

Debtor filed a Response on April 1, 2025. Docket 61. Debtor states she has provided a doctor's note to explain a medical limitation.

DISCUSSION
Failed to Commence Plan Payments

Debtor did not commence making plan payments and is $6,700.00 delinquent in plan payments, which represents multiple months of the $3,350.00 plan payment. Before the hearing, another plan payment will be due. 11 U.S.C. § 1307(c)(4) permits the dismissal or conversion of the case for failure to commence plan payments.

Failed to Appear at § 341 Meeting of Creditors

Debtor did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. Attendance is mandatory. 11 U.S.C. § 343. Debtor also did not appear at the continued Meeting held on April 2, 2025. Failure to appear at the Meeting of Creditors is unreasonable delay that is prejudicial to creditors and is cause to dismiss the case. 11 U.S.C. § 1307(c)(1).

Prior Plan Denied, No New Plan

Debtor did not file a Plan or a Motion to Confirm a Plan following the court's denial of confirmation to Debtor's prior plan. A review of the docket shows that Debtor has not yet filed a new plan or a motion to confirm a plan. Debtor offers no explanation for the delay in setting a plan for confirmation. That is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

~~Based on the foregoing, cause exists to dismiss this case. The Motion is granted, and the case is dismissed.~~

~~The court shall issue an 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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, Lilian G. Tsang ("Trustee"), 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 Dismiss is granted, and the case is dismissed.~~

5. **25-20717-E-13 DPC-1** | **CASEY WOODBURY** **Pro Se** | **OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK** **4-9-25 [32]**

ITEMS 5 thru 6

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor (*pro se*) and Office of the United States Trustee on April 9, 2025. By the court's calculation, 27 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection. At the hearing ----------.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Plan on the basis that:

1. Debtor Casey Woodbury ("Debtor") failed to submit proof of his social security number and a copy of a government issued picture identification to the Trustee before the First Meeting of Creditors. Obj. 1:26-28.

2. Debtor failed to submit 11 U.S.C. § 521 documents, including pay advices and not filing all tax returns. *Id.* at 2:4-16.

3. Debtor's Plan provides for a sale of his real property located at 961 Silverton Circle in Lincoln, CA. 95648 ("Property"). However, there is no mention of a payment to the Trustee, nor does the Plan require Debtor to make monthly mortgage payments. Debtor has a history of bankruptcy with four prior filings in seven years. This appears to be a delay tactic. *Id.* at 2:21-3:14.

Trustee submits the Declaration of Trina Hayek to authenticate the facts alleged in the Objection. Decl., Docket 34.

DISCUSSION

Failure to Authenticate Identification Prior to Meeting of Creditors

Fed. R. Bankr. P. 4002(b)(1)(A) and (B) state:

(b) Individual Debtor's Duty To Provide Documentation.

(1) Personal Identification. Every individual debtor shall bring to the meeting of creditors under §341:

(A) a picture identification issued by a governmental unit, or other personal identifying information that establishes the debtor's identity; and

(B) evidence of social-security number(s), or a written statement that such documentation does not exist.

Here, Debtor has not complied with this rule as Trustee informs the court he did not provide the required identification. That is cause to sustain the objection.

Failure to File Tax Returns

Debtor admitted at the Meeting of Creditors that the federal income tax return for the 2021 through 2024 tax years have not been filed. Filing of the returns is required. 11 U.S.C. §§ 1308, 1325(a)(9). Failure to file a tax return is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

Failure to Provide Pay Stubs / Pay Advices

Debtor has not provided Trustee with employer payment advices for the sixty-day period preceding the filing of the petition as required by 11 U.S.C. § 521(a)(1)(B)(iv); FED. R. BANKR. P. 4002(b)(2)(A). Debtor has failed to provide all necessary pay stubs. That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

Good Faith Requirement of
11 U.S.C. § 1325(a)(3)

11 U.S.C. § 1325(a)(3) states:

(a) Except as provided in subsection (b), the court shall confirm a plan if—
. . .
(3) the plan has been proposed in good faith and not by any means forbidden by law;

The Ninth Circuit has ruled "[a] bankruptcy court must inquire whether the debtor has misrepresented facts in his plan, unfairly manipulated the Bankruptcy Code, or otherwise proposed his Chapter 13 plan in an inequitable manner" in ruling on whether a Plan was proposed in bad faith. *In re Goeb*, 675 F.2d 1386, 1390 (9th Cir. 1982).

In this case, Debtor is not correctly listing the claims of creditors nor properly advising Trustee how monies will be provided to Trustee from the sale of the Property. Moreover, Debtor has an unsuccessful history in bankruptcy. There is a massive arrearage on the deed of trust secured by the Property in the amount of $180,010.83. POC 1-1.

A review of Debtor's Schedules indicates that the "financial issue" Debtor is seeking to address is the debt secured by sole real estate asset. Wilimington Savings Fund Society, FSB, as Owner of CSMC 2018-RPL 12 Trust, the creditor asserting the claim secured by the real estate asset, has filed Proof of Claim 1-1 asserting a ($544,136.70) fully secured claim. The pre-petition arrearage is stated to be)$180,010.83).

In the proposed Plan, the Debtor (in *pro se*) states that at some time, with prior court approval, will list and sell the real estate. No time line is provided for such a sale.

The bankruptcy process can provide "shock absorber" to allow for the prompt, commercially reasonable sale of an asset in a situation where a debt has been long in default and efforts to pay have failed. However, such a "shock absorber" is not a for free device to hold property payment free to speculate on future appreciation in value.

Looking at Schedule I, including the income from the rental property, Debtor shows a strong monthly cash inflow.

At the hearing, **xxxxxxx**

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

The court shall issue an 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, David Cusick ("Trustee"), 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 Confirmation of the Plan is sustained, and the proposed Chapter 13 Plan is not confirmed.

6.	**25-20717-E-13** **JCW-1**	**CASEY WOODBURY** **Pro Se**	**OBJECTION TO CONFIRMATION OF PLAN BY WILMINGTON SAVINGS FUND SOCIETY, FSB** **3-24-25 [28]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor (*pro se*), Chapter 13 Trustee , and Office of the United States Trustee on March 24, 2025. By the court's calculation, 43 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection. At the hearing ----------.

The Objection to Confirmation of Plan is sustained.

Wilmington Savings Fund Society, FSB, not in its individual capacity, but solely as Owner Trustee on Behalf for CSMC 2018-RPL12 Trust, by and through its servicing agent Nationstar Mortgage LLC d/b/a Rushmore Servicing, as its attorney in fact ("Creditor") holding a secured claim opposes confirmation of the Plan on the basis that:

1. Debtor Casey Woodbury ("Debtor") Plan does not provide for arrearages owed to Secured Creditor. There is a massive arrearage on the deed of trust secured by the Property in the amount of $180,010.83.

2. Debtor's Plan relies on the sale of the Property at some undefined point during the term of the Plan for the Plan to be feasible. While Secured Creditor does not object to Debtor's intent to sell the Property, Secured Creditor objects to the substantial delay and nonpayment of its claim.

DISCUSSION
Failure to Cure Arrearage of Creditor

The objecting creditor holds a deed of trust secured by Debtor's residence. Creditor has filed a timely proof of claim in which it asserts $180,010.83 in pre-petition arrearage. POC 1-1. The Plan does not propose to cure that arrearage. The Plan must provide for payment in full of the arrearage as well as maintenance of the ongoing note installments because it does not provide for the surrender of the collateral for this claim. *See* 11 U.S.C. §§ 1322(b)(2) & (5), 1325(a)(5)(B). The Plan cannot be confirmed because it fails to provide for the full payment of arrearage.

It may be that Debtor can sell the Property and pay Creditor's claim in full. However, Debtor's Plan is lacking adequate protection payments to Creditor as well as a definite timeline to complete the sale of the Property.

At the hearing, **XXXXXXX**

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

The court shall issue an 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 Wilmington Savings Fund Society, FSB, not in its individual capacity, but solely as Owner Trustee on Behalf for CSMC 2018-RPL12 Trust, by and through its servicing agent Nationstar Mortgage LLC d/b/a Rushmore Servicing, as its attorney in fact ("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 Objection to Confirmation of the Plan is sustained, and the proposed Chapter 13 Plan is not confirmed.

7. 25-20819-E-13 DPC-1 | JEFFREY VAN DEN OEVER, Pro Se | OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK, 4-16-25 [18]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor (*pro se*) and Office of the United States Trustee on April 16, 2025. By the court's calculation, 20 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection. At the hearing ----------.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Plan on the basis that:

1. Debtor Jeffrey James Van Den Oever, Sr. ("Debtor") failed to properly fill out the Plan. Obj. 2:2-8.

2. Debtor has attempted to opt in the federal homestead exemption, but California has opted out. *Id.* at 2:9-23.

3. Debtor failed to submit 11 U.S.C. § 521 documents, including pay advices and not providing tax returns. *Id.* at 3:5-15.

4. Debtor failed to submit proof of his social security number, and a copy of a government issued picture identification to the Trustee before the First Meeting of Creditors. *Id.* at 3:16-22.

Trustee submits the Declaration of Trina Hayek to authenticate the facts alleged in the Objection. Decl., Docket 20.

DISCUSSION

Debtor is attempting to prosecute this case in *pro se* and is having trouble complying with his duties in the case. Debtor has failed to provide for essential provisions of the Plan and has failed to properly fill out the required schedules. The Plan is not confirmable, Debtor failing to provide a timeline for the Plan or even monthly payments.

Debtor has a prior Chapter 13 Case filed on January 24, 2025, in *pro se*, that was dismissed on February 11, 2025.

At the hearing, **xxxxxxx**

Failure to Authenticate Identification Prior to Meeting of Creditors

Fed. R. Bankr. P. 4002(b)(1)(A) and (B) state:

(b) Individual Debtor's Duty To Provide Documentation.

> (1) Personal Identification. Every individual debtor shall bring to the meeting of creditors under §341:
>
> > (A) a picture identification issued by a governmental unit, or other personal identifying information that establishes the debtor's identity; and
> >
> > (B) evidence of social-security number(s), or a written statement that such documentation does not exist.

Here, Debtor has not complied with this rule as Trustee informs the court he did not provide the required identification. That is cause to sustain the objection.

Failure to Provide Pay Stubs / Pay Advices

Debtor has not provided Trustee with employer payment advices for the sixty-day period preceding the filing of the petition as required by 11 U.S.C. § 521(a)(1)(B)(iv); FED. R. BANKR. P. 4002(b)(2)(A). Debtor has failed to provide all necessary pay stubs. That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

Failure to Provide Tax Returns

Debtor did not provide either a tax transcript or a federal income tax return with attachments for the most recent pre-petition tax year for which a return was required. *See* 11 U.S.C. § 521(e)(2)(A)(i); FED. R. BANKR. P. 4002(b)(3). Debtor has failed to provide the tax transcript. That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

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

The court shall issue an 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, David Cusick ("Trustee"), 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 Confirmation of the Plan is sustained, and the proposed Chapter 13 Plan is not confirmed.

8. 25-20922-E-13 MRL-1 | **TAWANA BRIDGEWATER**, **Candace Brooks** | **MOTION TO VALUE COLLATERAL OF ALLY FINANCIAL, INC.**, **4-15-25 [18]**

ITEMS 8 thru 9

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Creditor on April 15, 2025. By the court's calculation, 21 days' notice was provided. 14 days' notice is required.

The Motion to Value Collateral and Secured Claim was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, ----------.

The Motion to Value Collateral and Secured Claim of Ally Financial, Inc. is granted, and Creditor's secured claim is determined to be in the amount of $15,000.

The Motion filed by Tawana Miesha Bridgewater ("Debtor") to value the secured claim of Ally Financial, Inc. ("Creditor") is accompanied by Debtor's declaration. Declaration, Docket 20. Debtor is the owner of a 2017 Infinity QO ("Vehicle"). Debtor seeks to value the Vehicle at a replacement value of $15,000 as of the petition filing date. As the owner, Debtor's opinion of value is evidence of the asset's value. *See* FED. R. EVID. 701; *see also Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred in April of 2021, which is more than 910 days prior to filing of the petition, to secure a debt owed to Creditor with a balance of approximately $20,737. Declaration ¶ 13, Docket 20. Therefore, Creditor's claim secured by a lien on the asset's title is under-collateralized. Creditor's secured claim is determined to be in the amount of $15,000,

the value of the collateral. *See* 11 U.S.C. § 506(a). The valuation motion pursuant to Federal Rule of Bankruptcy Procedure 3012 and 11 U.S.C. § 506(a) is granted.

The court shall issue an 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 Value Collateral and Secured Claim filed by Tawana Miesha Bridgewater ("Debtor") 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 pursuant to 11 U.S.C. § 506(a) is granted, and the claim of Ally Financial, Inc. ("Creditor") secured by an asset described as 2017 Infinity QO ("Vehicle") is determined to be a secured claim in the amount of $15,000, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan. The value of the Vehicle is $15,000 and is encumbered by a lien securing a claim that exceeds the value of the asset.

9. 25-20922-E-13 DPC-1 | TAWANA BRIDGEWATER Candace Brooks | OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK 4-9-25 [14]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor and Office of the United States Trustee on April 9, 2025. By the court's calculation, 27 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection. At the hearing ----------.

The Objection to Confirmation of Plan is overruled.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Plan on the basis that:

1. Debtor Tawana Miesha Bridgewater's ("Debtor") Plan relies on a pending Motion to Value Collateral. Obj. 1:25-28.

2. In the event that the Debtor does not value the Collateral where the Debtor estimates the value at $15,000.00 and the plan proposes no less than 0% to unsecured, the Debtor appears to be attempting to unfairly discriminate against general unsecured claims in favor of the unsecured portion of the Ally Financial claim, contrary to 11 U.S.C. §1322(b)(1). Obj. 2:6-11.

Trustee submits the Declaration of Angelina Fernandez to authenticate the facts alleged in the Objection. Decl., Docket 16.

DEBTOR'S REPLY

Debtor filed a Reply on April 23, 2025. Docket 22. Debtor states the Motion to Value is being heard in conjunction with this Objection, and if sustained, the Plan should be confirmed.

DISCUSSION

Trustee's sole grounds for objecting are based on the Motion to Value. The court intends to grant that Motion, although it is noticed according to Local Bankruptcy Rule 9014-1(f)(2). Therefore, the Objection is overruled.

The court shall issue an 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, David Cusick ("Trustee"), 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 overruled, and Tawana Miesha Bridgewater's ("Debtor") Chapter 13 Plan filed on February 28, 2025, is confirmed. Counsel for Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

10. 25-20228-E-13 DBJ-1 — DANIEL BAKER — Douglas Jacobs — MOTION TO CONFIRM PLAN — 3-17-25 [20]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on all creditors and parties in interest on March 17, 2025. By the court's calculation, 50 days' notice was provided. 35 days' notice is required. FED. R. BANKR. P. 2002(a)(9); LOCAL BANKR. R. 3015-1(d)(1).

The Motion to Confirm the Amended Plan has been set for hearing on the notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Opposition having been filed, the court will address the merits of the motion at the hearing. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Motion to Confirm the Amended Plan is xxxxxxx.

The debtor, Daniel Anthony Baker ("Debtor"), seeks confirmation of the Amended Plan. The Amended Plan provides for 59 monthly payments of $2,250.20. Amended Plan, Docket 23. 11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation.

CHAPTER 13 TRUSTEE'S OPPOSITION

The Chapter 13 Trustee, David Cusick ("Trustee"), filed an Opposition on April 21, 2025. Docket 29. Trustee opposes confirmation of the Plan on the basis that:

a. Debtor is $1,050.20 delinquent in Plan payments to the Trustee as Debtor did not include nonstandard provisions, (although the §1.02 box was checked), calling for plan payments of $1,050.20 in month 1 and then $2,250.20 thereafter. Opp'n 1:26-2:3.

   i. Debtor filed a Reply on April 28, 2025. Debtor states the delinquency will be cured prior to the hearing on this Motion. Reply at 1:26-27.

b. The Plan, if it has provisions different than the form plan, will have the box checked in §1.02 and have the nonstandard provisions on a

separate page appended to the plan after the signature page. While this plan has the box checked, it does not have a separate page appended, or any nonstandard provisions at all. Opp'n 2:13-17.

i. Debtor responds and says checking the box was an error and can be corrected in the order confirming. Reply at 2:1-3.

c. Trustee objects to the Plan duration of 59 months when Debtor is over the median income and must have a 60 month Plan if not paying 100% to unsecured creditors. Opp'n 2:20-25.

i. Debtor responds and says agin this is a clerical error, the Plan is to extend for 60 months and can be corrected in the order confirming. Reply at 2:4-6.

d. There is an issue with the monthly payment toward attorney's fees. Debtor has provided for monthly payments of $223 toward the fees, but by Trustee's calculations the payment should be $106.25. Obj. 2:26-3:2.

i. Debtor responds by agreeing and stating the attorney's fees can be corrected in the order confirming the Plan to $106.25 per month. Reply 2:7-9.

e. Finally, Trustee objects and states that as Debtor's Amended Plan provides for the payment of Vehicles, that expense should be removed from the Schedule J. Obj. 3:3-20.

i. Debtor responds by again agreeing and states the Schedules will be amended prior to the hearing. Reply at 2:10-11.

DISCUSSION

It appears Debtor has constructively addressed Trustee's Objections point by point. As of the court's review of the Docket on April 29, 2025, Debtor has not yet filed an Amended Schedule J. At the hearing, **xxxxxxx**

~~The Amended Plan complies with 11 U.S.C. §§ 1322, 1323, and 1325(a) as amended and is confirmed.~~

The court shall issue an 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 the Amended Chapter 13 Plan filed by the debtor, Daniel Anthony Baker ("Debtor") 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, and Debtor's Amended Chapter 13 Plan filed on March 17, 2025, is confirmed as amended to clarify the Plan duration, monthly dividend to attorney's fees, and that there are not any nonstandard provisions. Debtor's Counsel shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee, David Cusick ("Trustee"), for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.~~

11. 25-20130-E-13 DPC-1 | **MICHELLE BOHANON** / **Mary Ellen Terranella** | **CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK** **2-26-25 [20]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on February 26, 2025. By the court's calculation, 27 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection.

The Objection to Confirmation of Plan is xxxxxxx.

May 6, 2025 Hearing

The court continued the hearing on this Objection to allow for a review of the Schedules and confirm the financial terms of the Plan. On April 22, 2025, Trustee filed a Status Report. Docket 32. Trustee states:

1. Debtor has amended Schedule H, has provided their 2023 tax return, and is current in plan payments. *Id.* at 1:22-23.

2. Trustee does not believe the 2024 tax returns have been filed, but Debtor has advised 2022 and 2023 returns have been filed and has now provided both federal returns. *Id.* at 1:24-25.

3. Subsequent to the objection being filed, excess claims were filed by the Internal Revenue Service and Select Portfolio Servicing. Trustee now calculates that the plan is underfunded and will go 87 months. *Id.* at 2:1-4.

4. Debtor is to see a refund for the tax years 2021 through 2023. It may be the case the IRS seeks an offset or if Debtor will be amended Schedule A/B to list the refunds as assets. *Id.* at 2:5-18.

5. Trustee recommends the objection be continued or sustained.

Debtor also filed her Status Report on April 22, 2025. Docket 33. Debtor agrees with Trustee's numbers regarding tax returns and tax claims from the IRS. Debtor also explains, pursuant to the recent case of *Saldana v. Bronitsky* (*In re Saldana*) 122 F.4th 333 (9th Cir. Nov. 2024), voluntary employer-managed retirement plans are not disposable income. Status Report at 3:1-13.

Debtor also states that she and her non-filing spouse do have retirement loans, which are being repaid through payroll deductions. The Debtor's retirement loan will be paid off on March 22, 2027, freeing up, after tax, $150.00. The Debtor's non-filing spouse's retirement loan will be paid off August 24, 2027, freeing up, after tax, $382.00. The Plan includes a step up provision to include this increase in disposable income when it becomes available. *Id.* at 3:6-12. Debtor requests confirmation of the Plan.

At the hearing, **XXXXXXX**

REVIEW OF OBJECTION

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Plan on the basis that:

1. Michelle Yvonne Bohanon ("Debtor") admitted at the First Meeting of Creditors, held on February 20, 2025, that she was required to file tax returns for 2020 through 2023 and has not done so. Obj. 2:3-8.

2. Debtor's first Plan payment of $3,950.00 was due as of February 25, 2025, and has not been paid, contrary to 11 U.S.C. §§1322(a)(2) & (6.) The Debtor advised the hearing officer at the First Meeting of Creditors that she will be setting up payments to be paid through TFS payment system. To date the Trustee has not received any payments from TFS. *Id.* at 2:11-15.

3. The Plan may not be proposed in Debtor's best efforts. First, the Plan proposes 0% to unsecured creditors, but Schedule I shows the Debtor and the Non-Filing Spouse, ("NFS"), are making a voluntary contribution in a retirement plan for a total of $1,129.00 per month. *Id.* at 2:16-24.

4. Additionally, Schedule I shows the Debtor, and the NFS, are paying retirement loans for a total of $679.00 per month. The Trustee is concerned that these loans will be paid in full at some point during the Plan and the Debtor should make step-up Plan payment(s), if these loans are paid off prior to the completion of the Plan. *Id.* at 2:27-3:2.

5. Debtor has not provided sufficient information regarding her NFS on her Schedule H. Debtor advised she would amend Schedule H, but no such amendment has yet been made. *Id.* at 3:3-7.

Trustee submits the Declaration of Teryl Wegemer to authenticate the facts alleged in the Objection. Decl., Docket 22.

DISCUSSION

Failure to File Tax Returns

Debtor admitted at the Meeting of Creditors that the federal income tax returns for the 2020, 2021, 2022, and 2023 tax years have not been filed. Filing of the returns is required. 11 U.S.C. §§ 1308, 1325(a)(9). Failure to file a tax return is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

Debtor's counsel reports that the returns are being obtained and will be presented to the court.

Delinquency

Debtor is $3,950.00 delinquent in plan payments, which represents one month of the plan payment. Before the hearing, another plan payment will be due. Delinquency indicates that the Plan is not feasible and is reason to deny confirmation. *See* 11 U.S.C. § 1325(a)(6).

Counsel for the Trustee reports that the February 2025 payment was previously made, and the March payment has been made on March 25, 2025.

Failure to Provide Disposable Income / Not Best Effort

Trustee alleges that the Plan violates 11 U.S.C. § 1325(b)(1), which provides:

> If the trustee or the holder of an allowed unsecured claim objects to the confirmation of the plan, then the court may not approve the plan unless, as of the effective date of the plan the value of the property to be distributed under the plan on account of such claim is not less than the amount of such claim; or the plan provides that all of the debtor's projected disposable income to be received in the applicable commitment period beginning on the date that the first payment is due under the plan will be applied to make payments to unsecured creditors under the plan.

The Plan proposes to pay a 0 percent dividend to unsecured claims, though Debtor schedules voluntary retirement payments of $1,129 per month. Moreover, it appears Debtor will have an increase in disposable income when her retirement loan is paid off. Failing to contribute any to unsecured creditors under these circumstances does not appear to be Debtor's best efforts. Thus, the court may not approve the Plan.

Inaccurate or Missing Information

Debtor's Schedules H must be amended to properly inform parties about her NFS. To date, no amended Schedule H has been filed. Without an accurate picture of debtor's financial reality, the court is unable to determine if the Plan is confirmable. *See* 11 U.S.C. § 1325(a)(6).

Debtor's counsel confirmed that the amended Schedules have been filed.

The Parties agreed to continue the hearing to allow for a review of the Schedules and confirm the financial terms of the Plan.

The hearing on the Objection to Confirmation of Plan is continued to 2:00 p.m. on May 6, 2025.

The court shall issue an 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, David Cusick ("Trustee"), 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 Confirmation of Plan is **xxxxxxx**.

12. 24-25731-E-13 NLG-1 | **DAVID/MARY GILL** | **Nicholas Wajda** | **CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY CARRINGTON MORTGAGE SERVICES, LLC**
2-6-25 [14]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on February 6, 2025. By the court's calculation, 33 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection.

The Objection to Confirmation of Plan is xxxxxxx.

May 6, 2025 Hearing

The court continued the hearing on this Objection as the Parties agreed to a continuance so the terms of amendments can be finalized. A review of the Docket on April 28, 2025 reveals nothing new has been filed with the court.

At the hearing, **xxxxxxx**

REVIEW OF OBJECTION

Carrington Mortgage Services, LLC ("Creditor"), opposes confirmation of the Plan on the basis that:

1. David Norman Gill and Mary Elizabeth Gill ("Debtor") did not provide for the full amount of Creditor's arrearage in their proposed Plan. Obj. 2:15-21.

DISCUSSION

Failure to Cure Arrearage of Creditor

The objecting creditor holds a deed of trust secured by Debtor's residence. Creditor has filed a timely proof of claim in which it asserts ($53,708.83) in pre-petition arrearage. POC 7-1. The Plan, ¶ 3.07 expressly provides for payment of Creditor's secured claim, including paying the amount of the arrearage. While Debtor has typed the amount of ($40,604.07) for this Class 1 Claim, the amount stated in the Plan does not control the amount of the arrearage.

The Plan expressly provides that the amount stated by the Debtor in the Plan does not control the amount of the arrearage to be cured, but plainly states:

> A. Proofs of Claim
>
> 3.01. With the exception of the payments required by sections 3.03, 3.07(b), 3.10, and 4.01, a claim will not be paid pursuant to this plan unless a proof of claim is filed by or on behalf of a creditor, including a secured creditor.
>
> 3.02. The proof of claim, not this plan or the schedules, shall determine the amount and classification of a claim unless he court's disposition of a claim objection, valuation motion, or lien avoidance motion affects the amount or classification of the claim.

Plan, § 3, ¶¶ 3.01, 3.02.

Creditor computes that the funding for the Plan would need to be increased by $281.41 a month to pay the arrearage as stated in the Proof of Claim.

Reviewing Schedules I and J, it appears that Debtor has projected disposable income to make the higher Plan payment. Dckt. 1 at 31-34.

As written, the Plan does not propose to cure the full arrearage. The Plan must provide for payment in full of the arrearage as well as maintenance of the ongoing note installments because it does not provide for the surrender of the collateral for this claim. *See* 11 U.S.C. §§ 1322(b)(2) & (5), 1325(a)(5)(B). The Plan cannot be confirmed because it fails to provide for the full payment of arrearage.

Counsel for the Debtor requested a short continuance to put together the amended terms and funding of the Plan. Creditor concurred with the request. The hearing on the Objection to Confirmation of Plan is continued to 2:00 p.m. on March 25, 2025.

March 25, 2025 Hearing

The hearing was continued to allow Debtor sufficient time to put together language for the amended terms specifying how the Plan will be funded. A review of the Docket on March 14, 2025 reveals nothing new has been filed with the court.

At the hearing, counsel reported that the terms for amendments are being finalized. The parties agreed to continue the hearing.

The hearing on the Objection to Confirmation of Plan is continued to 2:00 p.m. on May 6, 2025.

The court shall issue an 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 Carrington Mortgage Services, LLC ("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 Objection to Confirmation of Plan is **XXXXXXX**.

13. 25-20234-E-13 DPC-1 | **JOHN BARNWELL** **Peter Macaluso** | **CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK** **2-26-25 [15]**

Item 13 thru 15

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on February 26, 2025. By the court's calculation, 27 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection.

The Objection to Confirmation of Plan is xxxxxxx.

May 6, 2025 Hearing

The court continued the hearing on the Objection upon the Parties' agreement, Debtor needing to amend various forms to reflect new employment. A review of the docket on April 28, 2025 reveals nothing new has been filed with the court.

At the hearing, xxxxxxx

REVIEW OF OBJECTION

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Plan on the basis that:

1. John Michael Barnwell's ("Debtor") Plan relies on two pending Motions to Value the collateral of Greenstate Credit Union, Class 2(B) claims. Obj. 2:3-9.

2. Debtor advised the hearing officer, at the First Meeting of Creditors held on February 20, 2025, that he recently obtained new employment. The hearing officer requested that the Debtor amend Schedules I and J to reflect the new employment, income and expenses. To date, no amended, or supplemented, Schedules I or J have been filed with the Court. *Id.* at 2:10-14.

3. Debtor must amend his Statement of Financial Affairs ("SOFA") to reflect the 2025 income with his new job. *Id.* at 2:15-20.

Trustee submits the Declaration of Teryl Wegemer to authenticate the facts alleged in the Objection. Decl., Docket 17.

DEBTOR'S REPLY

Debtor filed a Reply on March 18, 2025. Docket 50. Debtor states he has amended his Schedules I and J and SOFA, and the Motions to Value are filed and set to be heard on April 8, 2025.

DISCUSSION
Debtor's Reliance on Motion to Value Secured Claim

A review of Debtor's Plan shows that it relies on the court valuing the secured claims of Greenstate Credit Union. Debtor has filed the Motions to Value, but without the Motions being granted, the Plan is not feasible. 11 U.S.C. § 1325(a)(6). The hearings on those Motions are set for April 8, 2025.

New Employment

As Debtor has obtained new employment, the Schedules I and J as well as the SOFA must be amended to reflect this employment. Debtor filed the Amended Documents on March 18, 2025. Dockets 51, 52.

The Parties Agreed to continue the hearing.

The hearing on the Objection to Confirmation of Plan is continued to 2:00 p.m. on May 6, 2025.

The court shall issue an 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, David Cusick ("Trustee"), 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 Confirmation of Plan is **xxxxxxx**.

14. 25-20234-E-13 GAL-2 | **JOHN BARNWELL** Peter Macaluso | **CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY GREENSTATE CREDIT UNION 2-27-25 [26]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, and Office of the United States Trustee on February 27, 2025. By the court's calculation, 26 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection.

.

The Objection to Confirmation of Plan is xxxxxxx.

May 6, 2025 Hearing

The court continued the hearing on the Objection upon the Parties' agreement. A review of the docket on April 28, 2025 reveals nothing new has been filed with the court.

On May 2, 2025, Creditor Credit Union and Debtor filed a Stipulation. Dckt. 91. The Stipulation provides that Creditor's secured claim shall be ($12,200.00).

At the hearing, **xxxxxxx**

REVIEW OF OBJECTION

GreenState Credit Union ("Creditor") holding a secured claim opposes confirmation of the Plan on the basis that:

1. John Michael Barnwell's ("Debtor") Plan improperly values Creditor's collateral, a 2014 Dodge Challenger vin ending in 1221. Obj. 2:21-25.

Creditor submits the Declaration of Jordyn Schmitt to authenticate the facts alleged in the Objection. Decl., Docket 33.

DEBTOR'S REPLY

Debtor filed a Reply on March 18, 2025. Docket 48. Debtor states the Motions to Value are filed and set to be heard on April 8, 2025.

DISCUSSION
Debtor's Reliance on Motion to Value Secured Claim

A review of Debtor's Plan shows that it relies on the court valuing the secured claims of Creditor. Debtor has filed the Motions to Value, but without the Motions being granted, the Plan is not feasible. 11 U.S.C. § 1325(a)(6). The hearings on those Motions are set for April 8, 2025.

The Parties Agreed to continue the hearing.

The hearing on the Objection to Confirmation of Plan is continued to 2:00 p.m. on May 6, 2025.

The court shall issue an 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 GreenState Credit Union ("Creditor") holding a secured claim 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 Confirmation of Plan is **XXXXXXX**.

15. 25-20234-E-13 GAL-3 | **JOHN BARNWELL** Peter Macaluso | **CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY GREENSTATE CREDIT UNION 2-27-25 [31]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, and Office of the United States Trustee on February 27, 2025. By the court's calculation, 26 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection.

The Objection to Confirmation of Plan is dismissed without prejudice.

May 6, 2025 Hearing

The court continued the hearing on the Objection upon the Parties' agreement. A review of the docket on April 28, 2025 reveals nothing new has been filed with the court.

On May 2, 2025, GreenState Credit Union filed a withdrawal of its Objection to Confirmation. Dckt. 94.

The Objection is dismissed without prejudice.

REVIEW OF OBJECTION

GreenState Credit Union ("Creditor") holding a secured claim opposes confirmation of the Plan on the basis that:

1. John Michael Barnwell's ("Debtor") Plan improperly values Creditor's collateral, a 2019 Dodge Ram 1500 vin ending in 7521. Obj. 2:19-22.

2. Additionally, the Plan does not propose the appropriate interest rate. *Id.* at 3:1-3.

Creditor submits the Declaration of Jordyn Schmitt to authenticate the facts alleged in the Objection. Decl., Docket 28.

DEBTOR'S REPLY

Debtor filed a Reply on March 18, 2025. Docket 49. Debtor states the Motions to Value are filed and set to be heard on April 8, 2025.

DISCUSSION
Debtor's Reliance on Motion to Value Secured Claim

A review of Debtor's Plan shows that it relies on the court valuing the secured claims of Creditor. Debtor has filed the Motions to Value, but without the Motions being granted, the Plan is not feasible. 11 U.S.C. § 1325(a)(6). The hearings on those Motions are set for April 8, 2025.

Interest Rate

Creditor objects to the confirmation of the Plan on the basis that the Plan calls for adjusting the interest rate on its loan with Debtor to 4%. Creditor's claim is secured by a 2019 Dodge Ram 1500 vin ending in 7521. Creditor argues that this interest rate is outside the limits authorized by the Supreme Court in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). In *Till*, a plurality of the Court supported the "formula approach" for fixing post-petition interest rates. *Id.* Courts in this district have interpreted *Till* to require the use of the formula approach. *See In re Cachu*, 321 B.R. 716 (Bankr. E.D. Cal. 2005); *see also Bank of Montreal v. Official Comm. of Unsecured Creditors (In re American Homepatient, Inc.)*, 420 F.3d 559, 566 (6th Cir. 2005) (*Till* treated as a decision of the Court). Even before *Till*, the Ninth Circuit had a preference for the formula approach. *See Cachu*, 321 B.R. at 719 (citing *In re Fowler*, 903 F.2d 694 (9th Cir. 1990)).

The court agrees with the court in *Cachu* that the correct valuation of the interest rate is the prime rate in effect at the commencement of this case plus a risk adjustment. The court fixes the interest rate as the prime rate in effect at the commencement of the case, 7.5%, plus a 1.25% risk adjustment, for a 8.75% interest rate.

The Parties Agreed to continue the hearing.

The hearing on the Objection to Confirmation of Plan is continued to 2:00 p.m. on May 6, 2025.

The court shall issue an 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 GreenState Credit Union ("Creditor") holding a secured claim 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 Confirmation of Plan is dismissed without prejudice.

16. 25-21740-E-13 SMJ-1 | **ROBIN KINCAID** / **Scott Johnson** | **MOTION TO VALUE COLLATERAL OF ALLY BANK** / **4-14-25 [8]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Creditor on April 14, 2025. By the court's calculation, 22 days' notice was provided. 14 days' notice is required.

The Motion to Value Collateral and Secured Claim was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, ----------.

The Motion to Value Collateral and Secured Claim of Ally Bank ("Creditor") is granted, and Creditor's secured claim is determined to have a value of $24,060.00.

The Motion filed by Robin Legrand Kincaid ("Debtor") to value the secured claim of Ally Bank ("Creditor") is accompanied by Debtor's declaration. Declaration, Docket 10. Debtor is the owner of a 2019 Maserati Levante ("Vehicle"). Debtor seeks to value the Vehicle at a replacement value of $24,060.00 as of the petition filing date. As the owner, Debtor's opinion of value is evidence of the asset's value. *See* FED. R. EVID. 701; *see also Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred on September 17, 2021, which is more than 910 days prior to filing of the petition, to secure a debt owed to Creditor with a balance of approximately $49,936.00. Declaration ¶ 5, Docket 10. Therefore, Creditor's claim secured by a lien on the asset's title is under-collateralized. Creditor's secured claim is determined to be in the amount of $24,060.00, the value of the collateral. *See* 11 U.S.C. § 506(a). The valuation motion pursuant to Federal Rule of Bankruptcy Procedure 3012 and 11 U.S.C. § 506(a) is granted.

The court shall issue an 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 Value Collateral and Secured Claim filed by Robin Legrand Kincaid ("Debtor") 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 pursuant to 11 U.S.C. § 506(a) is granted, and the claim of Ally Bank ("Creditor") secured by an asset described as 2019 Maserati Levante ("Vehicle") is determined to be a secured claim in the amount of $24,060.00, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan. The value of the Vehicle is 24,060.00 and is encumbered by a lien securing a claim that exceeds the value of the asset.

17. 25-20941-E-13 DPC-1 | **BRANDON/JENNIFER DESART** Colby LaVelle | **OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK** 4-9-25 [14]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 9, 2025. By the court's calculation, 27 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection. At the hearing **----------**.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Plan on the basis that:

1. Debtor Brandon Paul Desart and Jennifer Marie Desart ("Debtor") reported at the 341 Meeting they have a timeshare with Wyndham, two investment accounts and an HSA health savings account, which are not on Debtor's Schedules. No Amended Schedule has been field to date. Obj. 1:25-27.

2. There is no business detail statement attached in response to Schedule I question #8a, despite Debtor showing that have income from rental property. *Id.* at 2:3-10.

3. There are missing expenses form Debtor's Schedule J, including an expense of $56.00 for the timeshare maintenance fee, and an expense of $1,572.00 for the HELOC loan. No Amended Schedule has been field to date. *Id.* at 2:11-16.

4. Similarly, Debtor must amend their Statement of Financial Affairs ("SOFA") to properly reflect their business interest.

Trustee submits the Declaration of Angelina Fernandez to authenticate the facts alleged in the Objection. Decl., Docket 16.

DISCUSSION

Inaccurate or Missing Information

Debtor's Schedules A/B and J and Statement of financial Affairs contain outdated or inaccurate information. Trustee requested the Debtor amend these documents, and as of the court's review on April 29, 2025, Debtor has not done so. Without an accurate picture of debtor's financial reality, the court is unable to determine if the Plan is confirmable. *See* 11 U.S.C. § 1325(a)(6).

Failure to File Business Documents Required by Schedule I

Debtor has failed to file a statement of gross business income and expenses attached to Schedule I. Line 8a of Schedule I requires Debtor to "[a]ttach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income." Debtor is required to submit that statement and cooperate with Trustee. 11 U.S.C. § 521(a)(3). Debtor has not provided the required attachment.

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

The court shall issue an 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, David Cusick ("Trustee"), 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 Confirmation of the Plan is sustained, and the proposed Chapter 13 Plan is not confirmed.

18. 25-20945-E-13 DPC-1 | **GREGORY/BRITTNEY SMALL** **Julius Cherry** | **OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK** **4-16-25 [17]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 16, 2025. By the court's calculation, 20 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection. At the hearing ----------.

The Objection to Confirmation ~~of Plan is sustained.~~

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Plan on the basis that:

1. Debtor Gregory Michael Small and Brittney Ann Small's ("Debtor") proposed Plan proposes to pay Attorney fees $3,000.00 for the first month, $1,075.00 for the second month, and $100.00 for 58 months. However, the Trustee is required to pay adequate protection payments on the Class 2(A) claims. If the Trustee makes these adequate protection payments, there will not be enough funds on hand to pay attorney's fees. This issue would be resolved if the Plan were confirmed as Trustee would not be required to make adequate protection payments, but could pay attorney's fees before other post-confirmation claims.

Trustee submits the Declaration of Teryl Wegemer to authenticate the facts alleged in the Objection. Decl., Docket 19.

DISCUSSION

Local Bankruptcy Rule 3015-1 (f)(2) states:

> *Adequate Protection Payments*. Prior to confirmation, the trustee shall pay on account of each allowed claim secured by a purchase money security interest in personal property an adequate protection payment if required by 11 U.S.C. § 1326(a)(1)(C). The adequate protection payment shall equal the monthly dividend stated in the proposed plan. Adequate protection payments shall be disbursed by the trustee in connection with his or her customary month-end disbursement cycle beginning the month after the case was filed. If a claimant is paid an adequate protection payment prior to plan confirmation, that claimant shall not be paid a monthly dividend for the same month after confirmation.

11 U.S.C. § 1326(a)(1) states:

(a)

> (1)Unless the court orders otherwise, the debtor shall commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—
>
> > (A)proposed by the plan to the trustee;
> >
> > (B)scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and
> >
> > (C)that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment.

It appears that the three claims in Class 2(A) are secured by personal property, and that the loans are purchase money loans. Therefore, there is a conflict in the terms of the Plan where the Plan calls for paying attorney's fees before Trustee is able to make the distribution on these required adequate protection payments. At the hearing, **xxxxxxx**

~~The Plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). The Objection is sustained, and the Plan is not confirmed.~~

The court shall issue an 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, David Cusick ("Trustee"), 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 Confirmation of the Plan is sustained, and the proposed Chapter 13 Plan is not confirmed.~~

19. 25-21056-E-13 DPC-1 | **SHIRLEAN MOORE-JORDAN** **Gabriel Liberman** | **OBJECTION TO CONFIRMATION OF PLAN BY DAVID P CUSICK** **4-18-25 [12]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 18, 2025. By the court's calculation, 18 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection. At the hearing ----------.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Plan on the basis that:

1. Debtor Shirlean Sparkle Moore-Jordan's ("Debtor") attorney may have overcharged for fees, treating this case as a business case when it does not qualify as a business case. Local Bankruptcy Rule 9016-1(c)(1)(B) indicates the definition of a business case is when at least 51% of the debtor(s)' and/or contributing non-filing member of the debtor(s)' household's aggregate gross going forward income is attributable to the

business or rental operations. Schedule I shows the Debtor's total income as $9,371.06, and the calculations show 51% would equal $4,779.24. Line 8a. shows the Debtor's business income as $2,000.00, which is only 21% of the Debtor's income. Obj. 2:1-7.

2. Debtor's attorney charged $15,000 under Local Bankruptcy Rule 2016-1(c), but the limit for a non-business case is $12,000.

Trustee submits the Declaration of Teryl Wegemer to authenticate the facts alleged in the Objection. Decl., Docket 14.

DISCUSSION

Local Bankruptcy Rule 2016-1(c) permits a no-look fee of $18,000 in a Chapter 13 business case. A business case is defined as follows:

> For the purposes of this subdivision, there is a rebuttable presumption that any Chapter 13 case is a nonbusiness case. That presumption may be rebutted by a preponderance of the evidence where the original petition, schedules, and statements demonstrate that: (1) the debtor(s) or a contributing non-filing member of the debtor(s)' household has an ownership interest in a business, e.g., sole proprietorship, partnership, or an entity, i.e., an S corporation or LLC, in which profits and losses are passed through to the equity holders for tax purposes, or in one or more rental properties; and (2) either (A) without consideration of the amount due any purchase money residential mortgage lender, at least 51% of the scheduled debt arose out of business or rental operations; or (B) at least 51% of the debtor(s)' and/or contributing non-filing member of the debtor(s)' household's aggregate gross going forward income is attributable to the business or rental operations.

Local Bankruptcy Rule 2016-1(c)(1)(B).

The Rule would permit a case to be deemed as business case if either qualifier in (2) is met: at least 51% of the debtor(s)' and/or contributing non-filing member of the debtor(s)' household's aggregate gross going forward income is attributable to the business or rental operations, or at least 51% of the scheduled debt arose out of business or rental operations. Trustee does not discuss the possibility that at least 51% of the scheduled debt could have arisen out of business or rental operations, only discussing the fact that Debtor does not derive 51% of her income from the business.

In reviewing Debtor's Schedule D and E/F, the only debts in Schedule D are two mortgages. Schedule D at 20-21, Docket 1. The Rule instructs the court is not to consider the mortgages in calculating debt for purposes of deciding if the case is a business case.

In Schedule E/F, there is only the claim of the IRS for personal income tax listed in the amount of $8,000. Schedule E/F at 23, Docket 1. This debt does not appear to be a business debt.

Therefore, it appears this is not a business case and Debtor has agreed to fees in excess of what Local Bankruptcy Rule 2016-1(c) permits. At the hearing, **XXXXXXX**

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

The court shall issue an 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, David Cusick ("Trustee"), 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 Confirmation of the Plan is sustained, and the proposed Chapter 13 Plan is not confirmed.

20. 25-20957-E-13 AP-1 | **IRENE AMMON** / **Michael Hays** | **OBJECTION TO CONFIRMATION OF PLAN BY BANK OF NEW YORK MELLON**
4-17-25 [18]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 17, 2025. By the court's calculation, 19 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection. At the hearing ----------.

The Objection to Confirmation of Plan is xxxxxxx.

Bank of New York Mellon, as Trustee for the Asset Backed Securities Corporation Home Equity Loan Trust 1999-LB1 ("Creditor") holding a secured claim opposes confirmation of the Plan on the basis that:

1. Debtor Irene Lavada Ammon's ("Debtor") Plan does not provide for proper treatment of Creditor's claim. Creditor's claim is secured by a deed of trust encumbering the real property commonly known as 231 Ammon Rd, Burnt Ranch, CA 95527 fka NSN Grays Falls HWY 299, Burnt Ranch, CA 95527 ("Property").

2. Debtor placed Creditor in Class 2(A) in the amount of $12,930.06 with 5% interest. Creditor argues the interest rate is too low and should ne prime rate plus risk as asserted in *Till*.

3. Creditor requests that the Order Confirming Plan include language which states the Debtor will be responsible for paying the Property Taxes and Hazard Insurance directly, and allowing for the filing of a post-petition fee

notice for all escrow disbursements made between the filing of the instant case and the de-escrowing of the Loan. Obj. 5:2-5.

DISCUSSION
Interest Rate

Creditor objects to the confirmation of the Plan on the basis that the Plan calls for adjusting the interest rate on its loan with Debtor to 5%. Creditor argues that this interest rate is outside the limits authorized by the Supreme Court in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). In *Till*, a plurality of the Court supported the "formula approach" for fixing post-petition interest rates. *Id.* Courts in this district have interpreted *Till* to require the use of the formula approach. *See In re Cachu*, 321 B.R. 716 (Bankr. E.D. Cal. 2005); *see also Bank of Montreal v. Official Comm. of Unsecured Creditors (In re American Homepatient, Inc.)*, 420 F.3d 559, 566 (6th Cir. 2005) (*Till* treated as a decision of the Court). Even before *Till*, the Ninth Circuit had a preference for the formula approach. *See Cachu*, 321 B.R. at 719 (citing *In re Fowler*, 903 F.2d 694 (9th Cir. 1990)).

The court agrees with the court in *Cachu* that the correct valuation of the interest rate is the prime rate in effect at the commencement of this case plus a risk adjustment. Because the creditor has only identified risk factors common to every bankruptcy case, the court fixes the interest rate as the prime rate in effect at the commencement of the case, 7.5%, plus a 1.25% risk adjustment, for a 8.75% interest rate. The objection to confirmation of the Plan on this basis is sustained. *See* 11 U.S.C. § 1325(a)(5)(B)(ii).

Further, in clarifying who will be paying insurance premiums upon plan confirmation, at the hearing, **XXXXXXX**

The court shall issue an 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 Bank of New York Mellon, as Trustee for the Asset Backed Securities Corporation Home Equity Loan Trust 1999-LB1 ("Creditor") holding a secured claim 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 Confirmation of the Plan is **XXXXXXX**.

21. 24-21358-E-13 PGM-3 | **CHARMAYNE SHULTZ** / **Peter Macaluso** | **MOTION TO MODIFY PLAN** / **3-27-25 [81]**

ITEMS 21 thru 22

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on creditors that have filed claims on March 27, 2025. By the court's calculation, 40 days' notice was provided. 35 days' notice is required. FED. R. BANKR. P. 2002(a)(5) & 3015(h) (requiring twenty-one days' notice); LOCAL BANKR. R. 3015-1(d)(2) (requiring fourteen days' notice for written opposition).

The Motion to Confirm the Modified Plan has been set for hearing on the notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Opposition having been filed, the court will address the merits of the motion at the hearing. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Motion to Confirm the Modified Plan is granted.

The debtor, Charmayne Lee Shultz ("Debtor") seeks confirmation of the Modified Plan because her car in Class 2 of the Plan was totaled. Declaration ¶ 2, Docket 83. The Modified Plan provides for Debtor having paid $4,365 through March of 2025, insurance proceeds of $23,592.23 being paid into the Plan, with payments of $405 to commence in April of 2025 for 49 months. Modified Plan, Docket 85. 11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation.

CHAPTER 13 TRUSTEE'S OPPOSITION

The Chapter 13 Trustee, David Cusick ("Trustee"), filed an Opposition on April 22, 2025. Docket 91. Trustee opposes confirmation of the Plan on the basis that:

1. No supplemental Schedule I & J have been filed to support this motion so the Court may find the debtor has not proven they can afford the payments. Opp'n 1:25-27.

    a. In reply, Debtor filed her Supplemental Schedule I and J on April 29, 2025. Docket 94. This issue has been resolved.

2. Debtor is proposing the percentage to unsecured creditors is no less than 0%. The Trustee calculates the proposed plan will pay approximately 26.252% to unsecured creditors. The Trustee is not certain why the percentage is set so low with no estimate of the likely percentage, and requests that should the plan be confirmed, the order confirming state the percentage to be paid will be no less than 20%. Opp'n 2:5-9.

   a. In reply, Debtor is amenable to change the percentage to unsecured creditors to 20% in the order confirming the Plan. Reply at 1:24-25.

3. The Modified Plan does not permit Trustee to distribute the insurance proceeds in the amount of $23,592.23 to secured creditor Capital One Auto Finance.

   a. This too can be corrected in the order confirming the Plan.

DISCUSSION

Debtor and Trustee have worked to resolve issues preventing confirmation. It appears now that the Modified Plan is confirmable as amended.

At the hearing, **xxxxxxx**

The Modified Plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329 and is confirmed.

The court shall issue an 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 the Modified Chapter 13 Plan filed by the debtor, Charmayne Lee Shultz ("Debtor") 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, and Debtor's Modified Chapter 13 Plan filed on March 27, 2025, is confirmed as amended to specify that there will be a dividend to unsecured creditors no less than 20%, and Trustee is authorized to distribute insurance funds in the amount of $23,592.23 to secured creditor Capital One Auto Finance. Debtor's Counsel shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee, David Cusick ("Trustee"), for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

22. 24-21358-E-13 DPC-1 | **CHARMAYNE SHULTZ** **Peter Macaluso** | **CONTINUED AMENDED MOTION TO DISMISS CASE 2-13-25 [77]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on February 13, 2025. By the court's calculation, 62 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The Motion to Dismiss is denied without prejudice.

May 6, 2025 Hearing

The court continued the hearing on this Motion to be heard in conjunction with Debtor's Motion to Confirm the Modified Plan. The court intends to grant that Motion. Therefore, the Motion to Dismiss is denied without prejudice.

REVIEW OF MOTION

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Charmayne Lee Shultz ("Debtor"), is delinquent $1,810.00 in plan payments. Debtor will need to have paid $3,340.00 to become current by the hearing date. Mot. 1:19-22, Docket 77.

2. Trustee received today an insurance check for $23,592.23 from CSAA representing the payoff of Debtor's 2019 Honda Ridgeline which secures Claim 7 of Capital Auto One Finance filed by AIS Portfolios Services. This payment is not called for by the plan so the Debtor remains delinquent but if treated as a plan payment would bring the Debtor current, payoff the

secured claim which has a current principal owed of $17,568.43 and interest due of $417.24 with $452.54 of Trustee fees, and either result in a refund of $1,257.33 or $5,154.02 of funds to the Debtor depending on whether funds should be held for the $3,897.99 unsecured part of claim 7. *Id.* at 2:11-17.

Trustee submitted the Declaration of Neil Enmark to authenticate the facts alleged in the Motion. Decl., Docket 79.

DEBTOR'S RESPONSE

Debtor filed a Response on April 1, 2025. Docket 87. Debtor states she has set for hearing confirmation of her Modified Plan.

Trustee filed a Reply on April 8, 2025, requesting the court continue this Motion until Debtor directs Trustee on how to apply the insurance proceeds. Docket 88.

DISCUSSION
Delinquent

Debtor is delinquent in plan payments. However, Trustee has received an insurance check that appears to bring the Plan completely current and even result in a net refund to Debtor. The proposed Modified Plan does not direct the Trustee on how to apply this insurance check. The court continues the hearing to May 6, 2025 at 2:00 p.m. on Trustee's request for the parties to work out how the insurance proceeds will be applied.

The court shall issue an 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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick ("Trustee"), 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 Dismiss is denied without prejudice.

23. 24-21068-E-13 SK-3 | **DESIREE LEWIS** **Sunita Kapoor** | **AMENDED OBJECTION TO CLAIM OF REAL TIME RESOLUTIONS, INC., CLAIM NUMBER 2** **3-28-25 [162]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 3007-1 Objection to Claim—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection to Claim and supporting pleadings were served on Creditor and Debtor on March 28, 2025. By the court's calculation, 38 days' notice was provided. 44 days' notice is required. FED. R. BANKR. P. 3007(a) (requiring thirty days' notice); LOCAL BANKR. R. 3007-1(b)(1) (requiring fourteen days' notice for written opposition).

The Objection to Claim has been set for hearing on the notice required by Local Bankruptcy Rule 3007-1(b)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). The defaults of the non-responding parties and other parties in interest are entered.

The Objection to Proof of Claim Number 2-1 of Real Time Resolutions, Inc. is overruled.

Desiree Rebecca Lewis, the Chapter 13 Debtor, ("Debtor") requests that the court disallow the claim of Real Time Resolutions, Inc. ("Creditor"), Proof of Claim No. 2-1 ("Claim"), Official Registry of Claims in this case. The Claim is asserted to be secured in the amount of $203,473.33. Debtor asserts that the claim should be disallowed based on the following two theories:

1. The statute of limitations has run on the time period for Creditor to enforce the Note and its Deed of Trust. Under California Code of Civil Procedure § 337, an action to enforce a written contract (including a promissory note) must be brought within four (4) years of default. Debtor defaulted in 2008, so the statute of limitations ran in 2012. Obj. 4:19-23.

    a. In the alternative, under California Code of Civil Procedure § 882.020(a), the lien expires 10 years after the maturity date. The loan was accelerated on July 20, 2009, which became the new maturity date. Therefore, the lien expired on July 20, 2019. Obj. 7:11-17.

2. On or about October 27, 2004, Debtor executed note in the amount of $75,400 ("Note") in favor of Full Spectrum Lending, Inc. This Note was

secured by a Deed of Trust recorded on October 29, 2004, ("Deed of Trust") and encumbers Debtor's home located at 4822 Mission Beach Court, Elk Grove, CA95758 ("Property"). That Note was subsequently assigned many times until Countrywide Home Loans, Inc. ("Countrywide") assigned the note to Creditor. Countrywide was not a legal entity in existence at the time of negotiating the note to Creditor, so the assignment of the note and Deed of Trust is void *ab initio*. Obj. 7:19-25.

Debtor submits her own Declarations in support of the Objection where she authenticates the Exhibits and facts alleged in the Motion. Decl., dockets 164, 168.

CREDITOR'S OPPOSITION

Creditor filed its Opposition[1] on April 21, 2025. Docket 176. Creditor argues:

1. The Note is indorsed in blank, and Creditor is the holder of the Note. Creditor has attached a copy of this Note to Renee Parker's Declaration at Docket 177 in support of the Opposition. Creditor is prepared to allow the court to inspect the Note. It is well settled law that when a Note is indorsed in blank, one only needs physical possession of the Note in order to enforce it. It is also settled law that the Deed of Trust follows the Note. There is no need for a showing that there has been proper assignment and the argument that the assignment is void *ab initio* is without merit. Opp'n 5:2-6:23.

2. Debtor cites the court to incorrect California Statutes regarding the statute of limitations to enforce the Note. The correct statute is California Code of Civil Procedure § 882.020(a) which deals with the time period for nonjudicial foreclosure. The time period is 10 years after the final maturity date that is ascertainable from the recorded evidence of indebtedness. The Deed of Trust as the recorded evidence of indebtedness specifies the final maturity date of November 1, 2019. Therefore, the lien expires on November 1, 2029 if Creditor does not initiate nonjudicial foreclosure proceedings by that date. The statute of limitations has not run. Opp'n 14:25-18:22.

DISCUSSION

Section 502(a) provides that a claim supported by a Proof of Claim is allowed unless a party in interest objects. Once an objection has been filed, the court may determine the amount of the claim after a noticed hearing. 11 U.S.C. § 502(b). It is settled law in the Ninth Circuit that the party objecting to a proof of claim has the burden of presenting substantial evidence to overcome the prima facie validity of a proof of claim, and the evidence must be of probative force equal to that of the creditor's proof of claim. *Wright*

[1]The court would note that Creditor makes additional arguments in support of its Opposition, including an argument appealing to standing principles. Obj. 6:24-8:5. While potentially meritorious, the court does not consider the additional arguments, instead focusing on the substance of the Objection.

v. Holm (In re Holm), 931 F.2d 620, 623 (9th Cir. 1991); *see also United Student Funds, Inc. v. Wylie (In re Wylie)*, 349 B.R. 204, 210 (B.A.P. 9th Cir. 2006). Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, and requires financial information and factual arguments. *In re Austin,* 583 B.R. 480, 483 (B.A.P. 8th Cir. 2018). Notwithstanding the prima facie validity of a proof of claim, the ultimate burden of persuasion is always on the claimant. *In re Holm*, 931 F.2d at p. 623.

Argument re Invalid Assignment

The established law in California is that a "borrower can generally raise no objection to assignment of the note and deed of trust. A promissory note is a negotiable instrument the lender may sell without notice to the borrower. The deed of trust, moreover, is inseparable from the note it secures, and follows it even without a separate assignment." *Yvanova v. New Century Mortgage Corp.*, 365 P.3d 845, 850 (Cal. 2016) (internal citations omitted).

Moreover, Creditor has presented evidence it holds the note indorsed in blank. *See* Note at 5, Ex. A, Docket 177. It is also established law that a person in physical possession of a note indorsed in blank has the right to enforce the instrument. California Commercial Code § 3205(b) states:

> If an indorsement is made by the holder of an instrument and it is not a special indorsement, it is a "blank indorsement." When indorsed in blank, an instrument becomes payable to bearer and may be negotiated by transfer of possession alone until specially indorsed.

The Note is indorsed in blank and is payable to bearer, currently Creditor, who has physical possession of the Note. The Deed of Trust is inseparably attached to the Note. Therefore, Debtor's argument that the assignment from Countrywide to Creditor is void *ab initio* as Countrywide ceased to exist is without merit. The simple fact that Creditor is in physical possession of the note indorsed in blank permits Creditor to enforce the Note and the accompanying Deed of Trust. Debtor arguing the assignment was invalid has no effect on this simple analysis. This portion of the Objection is overruled.

Argument re Statute of Limitations

With respect to the assertion that the Statute of Limitations has run, Debtor cites the court to California Code of Civil Procedure § 337 which states (emphasis added):

> Within four years:
>
> (a) An action upon any contract, obligation or liability founded upon an instrument in writing, **except as provided in Section 336a**; provided, that the time within which any action for a money judgment for the balance due upon an obligation for the payment of which a deed of trust or mortgage with power of sale upon real property or any interest therein was given as security, following the exercise of the power of sale in such deed of trust or mortgage, may be brought shall not extend beyond three months after the time of sale under such deed of trust or mortgage.

Debtor asserts that because the promissory Note is a written contact, the action must have been brought within four years of the default. This is a misstatement of the law.

California Code of Civil Procedure § 337 explicitly excludes the provisions of California Code of Civil Procedure § 336a. California Code of Civil Procedure § 336a states:

> Within six years:
>
> (a) An action upon any bonds, notes, or debentures issued by any corporation or pursuant to permit of the Commissioner of Financial Protection and Innovation, or upon any coupons issued with the bonds, notes, or debentures, if those bonds, notes, or debentures shall have been issued to or held by the public.
>
> (b) An action upon any mortgage, trust deed, or other agreement pursuant to which the bonds, notes, or debentures were issued. This section does not apply to bonds or other evidences of indebtedness of a public district or corporation.

Clearly Creditor would have six years to bring an action for default under the terms of the Note. However, the court need not discuss these Sections further. The record indicates Creditor is pursuing a nonjudicial foreclosure sale. A nonjudicial foreclosure sale is governed by California Code of Civil Procedure § 882.020(a), which states:

> (a) Unless the lien of a mortgage, deed of trust, or other instrument that creates a security interest of record in real property to secure a debt or other obligation has earlier expired pursuant to Section 2911, the lien expires at, and is not enforceable by action for foreclosure commenced, power of sale exercised, or any other means asserted after, **the later of the following times:**
>
> > (1) If the **final maturity date or the last date fixed for payment of the debt** or performance of the obligation is **ascertainable from the recorded evidence** of indebtedness, **10 years after that date**.
> >
> > (2) If the **final maturity date or the last date fixed for payment of the debt** or performance of the obligation **is not ascertainable from the recorded evidence of indebtedness**, or if there is no final maturity date or last date fixed for payment of the debt or performance of the obligation, **60 years after the date the instrument that created the security interest was recorded**.
> >
> > (3) If a notice of intent to preserve the security interest is recorded within the time prescribed in paragraph (1) or (2), 10 years after the date the notice is recorded.

A copy of the Deed of Trust is filed as Exhibit B. Dckt. 165 at 8. The Deed of Trust, on page 2 of 9, identifies the debt to be secured as follows:

> TO SECURE to Lender the repayment of the indebtedness evidenced by Borrower's note dated OCTOBER 27, 2004 and extensions and renewals thereof (herein "Note"), in the principal sum of U.S. $ 75,400.00 , with interest thereon, providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on NOVEMBER 01, 2019 ; the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and agreements of Borrower herein contained.

This states that the note is due and payable, the final maturity date and date of final payment being "November 01, 2019."

Debtor argues that the Note was accelerated on or about July 20, 2009, and so that date serves as the "final maturity date" for purposes of California Code of Civil Procedure § 882.020(a). Under this theory, the lien would have expired on July 20, 2019.

The court finds instructive the California Court of Appeal case in the Second District of California, *Trenk v. Soheili*, 273 Cal. Rptr. 3d 184, 191 (Cal. Ct. App. 2020). In *Trenk*, the court explains:

> Section 882.020 expressly states that the 10-year time period applies only if "the final maturity date or the last date fixed for payment of the debt or performance of the obligation is ascertainable from the *recorded* evidence of indebtedness." (§ 882.020, subd. (a)(1), italics added.) Alternatively, "[i]f the final maturity date or the last date fixed for payment of the debt or performance of the obligation is not ascertainable from the *recorded* evidence of indebtedness," the 60-year period applies. (§ 882.020, subd. (a)(2), italics added.)
>
> There is no ambiguity in this statutory requirement that a document stating the last date for payment of the underlying obligation must be recorded for the 10-year period to apply. The requirement does not make any exception when there is actual knowledge of that date by the party that is exercising a power of sale. We must give effect to this requirement.
>
> Cases that have considered the meaning of this provision have come to the same conclusion. In *Miller*, the trustor of a deed of trust argued that the 10-year period under section 882.020 applied because the recorded trust deed referred to an unrecorded promissory note that contained the date for payment. (*Miller*, *supra*, 26 Cal.App.4th at p. 1709, 33 Cal.Rptr.2d 288.) The court rejected that argument, concluding that "[t]he phrase 'ascertainable from the record' in section 882.020 can only mean what it says; i.e., the recorded document must contain the requisite information." (*Ibid.*) The court explained that "the purpose of the statute is not merely to give notice that the property is encumbered, but to provide a specific date for the expiration of the encumbrance." (*Miller*, at p. 1709, 33 Cal.Rptr.2d 288; accord, *Nicolopulos, supra*, 106 Cal.App.4th at pp. 310–311, 130 Cal.Rptr.2d 626; *Ung, supra*, 135 Cal.App.4th at pp. 201–204, 37 Cal.Rptr.3d 311 [recorded document other than the notice of default itself must state the due date of the underlying obligation to trigger the 10-year period].)
>
> Thus, actual notice of the date when an underlying obligation is due is not sufficient to trigger the 10-year period under section 882.020, subdivision (a). A recorded document must reveal that date.

Here, the court need not determine if the loan was accelerated or not. There is no evidence in the record that the Notice of Intent to Accelerate is a recorded document. *See* Ex. F at 26, Docket 165. The only recorded document before the court is the Deed of Trust securing the Note, and the Deed of Trust specifies the final maturity date is November 1, 2019. See Ex. B at 8, Docket 165. Therefore, the lien expired on November 1, 2029. This portion of the Objection is also overruled.

Indicia of Artificial Intelligence

After reading and analyzing Debtor's Objection, the court is left with the impression Debtor's counsel has relied either too heavily or entirely on the use of Artificial Intelligence ("AI"). While the use of AI can be a tool used by an attorney, the attorney must review the information generated, check the citations, and otherwise comply with the certifications made pursuant to Federal Rule of Bankruptcy Procedure 9011. The court has identified the following indicia of AI:

1. Debtor cites to the case *Weiner v. Van Kasper & Co.* (1999) 65 Cal.App.4th 403, 411-12. Obj. 5:9-10. This case does not exist.

2. Debtor cites to the case *Brown v. Deutche Bank Nat'l Trust Co.* (2021) 82 Cal.App.5th 640, 648-49. Obj. 6:24-25. This case does not exist. The case with that citation is West Coast University, Inc. V. Board of Registered Nursing, 82 Cal. App. 5th 624 (2022) . The court notes that there appears to be an unreported *Brown v. Deutsche Bank National Trust Co.* Decision, which the citation 2024 Cal. App. Unpub. LEXIS 7307.

3. Debtor cites to the case *Slintak v. Buckeye Retirement Co., L.L.C Ltd.* (2009) 2009 WL 632542. Obj. 6:5. This citation is incorrect. The reporter information directs the court to the case *Blackburn v. South Carolina*, C.A. No. 0:06-2011-PMD-BM, 2009 WL 632542 (D. S.C. 2009). Debtor states in regard to *Slintak*:

> "Though unpublished, this federal court case applying California law reasoned that when a lender accelerates a loan, the maturity date is effectively moved to the date of acceleration for statute of limitations purposes." Obj. 6:6-9.

   a. The correct case is *Slintak v. bucvkeye Retirement Co., L.L.C., Ltd.*, 43 Cal. Rptr. 3d 131 (Cal Ct. App. 2006). Not only is *Slintak* not unpublished, but it is also not a federal case discussing California state law.

4. In general, Debtor objects based on non-applicable statutory grounds, such as California Code of Civil Procedure § 337, and muddles distinguishable ideas for clearly separate concepts, such as judicial versus nonjudicial foreclosure deadlines.

The court is left with the impression that Debtor's attorney typed in relevant information and prompted AI to draft this pleading. Having fake cases, incorrect citations, incorrect descriptions of cases,

and muddled concepts are all clear indicia of AI. The court uses human beings to read through these pleadings and expects counsel who appear before it to do the same. Courts across the nation, including Judge Kim in this very courthouse, are beginning to issue sanctions for attorneys relying on artificial intelligence and submitting fictitious cases for a court to consider. *See, e.g.*, *United States v. Hayes*, —F. Supp. 3d —, 2025 WL 235531 (E.D. Cal. 2025).

At the hearing, **xxxxxxx**

The court shall issue an 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 of Real Time Resolutions, Inc. ("Creditor"), filed in this case by Desiree Rebecca Lewis, the Chapter 13 Debtor, ("Debtor") 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 2-1 of Creditor is overruled.

24. **24-23271-E-13 EJS-1** **BARBARA DODGE** **Eric Schwab** **CONTINUED STATUS CONFERENCE RE: MOTION TO AVOID LIEN OF KRISTOFER ORRE & SARAH ORRE 8-13-24 [10]**

Item 24 thru 26

Debtor's Atty: Eric John Schwab

Notes:
Continued from 2/25/25. Counsel for the Debtor reported that an appraisal was obtained and has been transmitted to counsel for Creditor. Creditor's counsel reported that she has receive it and the Parties are continuing in their negotiations to resolve this matter.

The Motion to Avoid Lien is xxxxxxx.

MAY 6, 2025 CONTINUED CONFERENCE

At the hearing, **xxxxxxx**

REVIEW OF THE MOTION

The Motion was continued multiple times. In the most recent continuance, the court granted a Stipulation filed by the parties requesting the continuance. Order, Docket 53. In the Order, creditors Kristofer Orre and Sarah Orre were to obtain a valuation and file opposition to the Motion on or before December 31, 2024. No oppositions were ever filed.

This Motion requests an order avoiding the judicial lien of Creditor against property of the debtor, Barbara Ann Dodge ("Debtor") commonly known as 9021 Braden Way, Sacramento, Ca 95826 ("Property").

A judgment was entered against Debtor in favor of Creditor in the amount of $255,416.56. Exhibit D, Dckt. 13. Debtor has not properly filed the Abstract of Judgment with the court as it lacks recorder information. The court is unable to determine where and when the judgment was recorded.

Pursuant to Debtor's Schedule A, the subject real property has an approximate value of $528,100 as of the petition date. Schedule A at 11, Docket 1. The unavoidable consensual liens that total $0 as of the commencement of this case are stated on Debtor's Schedule D. Schedule D at 20, Docket 1. However, Debtor has claimed an exemption pursuant to California Code of Civil Procedure § 704.730 in the amount of $532,000 on Schedule C. Schedule C at 17, Docket 1.

JANUARY 14, 2025 HEARING

On January 10, 2025, the Debtor and Creditors Kristofer and Sarah Orre filed an *Ex Parte* Joint Motion requesting that the hearing be continued to 2:00 p.m. on February 25, 2025, with opposition to be filed by February 11, 2025, and replies filed and served on or before February 18, 2025.

February 25, 2025 Hearing

The court continued the hearing on this Motion to be heard with the related Objections to Confirmation. As part of the court continuing this matter, opposition was to be filed by February 11, 2025, and replies were to be filed and served on or before February 18, 2025. A review of the Docket on February 21, 2025 reveals nothing new has been filed with the court.

At the hearing, counsel for the Debtor reported that an appraisal was obtained and has been transmitted to counsel for Creditor. Creditor's counsel reported that she has received it and the parties are continuing in their negotiations to resolve this matter.

The hearing on the Motion to Avoid Judicial Lien is continued to 2:00 p.m. on April 8, 2025, for a Status and Scheduling Conference.

APRIL 8, 2025 STATUS CONFERENCE

At the Status Conference, counsel for the Debtor reported that there are two concerns to address. First, Debtor's Motion to Avoid Judicial Lien, and second, the Motion to Value Secured Claim.

The Debtor's appraiser needs to provide an update to the Appraisal Report confirming that his opinion of value is for the 2024 value (the Report containing what appears to be a typo making reference to 2023).

The Motion to Value, if granted, then resolves the two Objections to Confirmation.

Creditor reports that it is reviewing the financial information provided by the Debtor and needs additional time to complete the review.

The Parties agreed that the Motion to Value and the two Objections to Confirmation shall all be continued to 2:00 p.m. on May 6, 2025.

The court shall issue an 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 Avoid Lien of Kristofer Orre and Sarah Orre, Creditors, filed by Barbara Dodge, Debtor, 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 Confirmation is **xxxxxxx**.

25. **24-23271-E-13** **BARBARA DODGE** **CONTINUED STATUS CONFERENCE RE: OBJECTION TO CONFIRMATION OF PLAN BY KRISTOFER ORRE AND SARAH ORRE**
CCR-1 **Eric Schwab** **9-12-24 [23]**

Debtor's Atty: Eric John Schwab

Notes:
Continued from 2/25/25. Counsel for the Debtor reported that the appraisal has been obtained and exchanged. They are reviewing the appraisals and continuing in their discussions to resolve this matter.

The Objection to Confirmation is xxxxxxx.

REVIEW OF OBJECTION

Kristofer Orre and Sarah Orre ("Creditor") holding a secured claim oppose confirmation of the Plan on the basis that:

1. Debtor Barbara Ann Dodge ("Debtor") did not file this Plan and case in good faith, in violation of 11 U.S.C. § 1325(a)(3) and (7). Debtor has

engaged in hiding assets prepetition by transferring money to avoid paying Creditor's claim, as well as misrepresenting costs on Debtor's Schedule J in the present case. Docket 23.

Creditor submits the Declaration of Sarah Orre to authenticate the facts alleged in the Objection. Decl., Docket 25.

DEBTOR'S REPLY

Debtor filed a Reply on October 2, 2024, asking the court continue the hearing on this Objection to November 5, 2024 at 2:00 p.m. to be heard in conjunction with the related Motion to Avoid Judicial Lien. Docket 32.

DISCUSSION

Good Faith Requirement of
11 U.S.C. § 1325(a)(3)

11 U.S.C. § 1325(a)(3) states:

(a) Except as provided in subsection (b), the court shall confirm a plan if—
. . .
(3) the plan has been proposed in good faith and not by any means forbidden by law;

The Ninth Circuit has ruled "[a] bankruptcy court must inquire whether the debtor has misrepresented facts in his plan, unfairly manipulated the Bankruptcy Code, or otherwise proposed his Chapter 13 plan in an inequitable manner" in ruling on whether a Plan was proposed in bad faith. *In re Goeb*, 675 F.2d 1386, 1390 (9th Cir. 1982).

The evidence before the court in this case shows that Debtor owed Creditor $252,581.56 resulting from an arbitration award entered by the Superior Court of California, County of Santa Cruz, case no. 23CV01407. Decl. ¶ 6, Docket 25. Creditor argues that Debtor closed certain accounts prepetition and moved funds from the closed accounts in order to frustrate collection attempts. If true, the court could infer the plan has been filed in bad faith.

At the hearing, the parties requested that the hearing be continued to 2:00 p.m. on November 5, 2024. The hearing on the Debtor's Motion to avoid the judicial lien of Creditor has been continued to that time and date.

The hearing on the Objection to Confirmation of Plan is continued to 2:00 p.m. on November 5, 2024.

November 5, 0224 Hearing

By prior Order of the Court, Dckt. 44, the hearing has been continued to 2:00 p.m. on December 10, 2024.

January 14, 2025 Hearing

The court continued the hearing on this Objection by order granting the *Ex Parte* Motion for a continuance. Docket 54. A review of the Docket on January 9, 2025 reveals nothing new has been filed with the court.

On January 10, 2025, Creditor and Debtor filed an *Ex Parte* Joint Motion to continue the hearing to 2:00 p.m. on February 25, 2025.

The hearing on the Objection to Confirmation of Plan is continued to 2:00 p.m. on February 25, 2025, with opposition to be filed by February 11, 2025, and replies filed and served on or before February 18, 2025.

February 25, 2025 Hearing

The court continued the hearing on this Objection by order granting the *Ex Parte* Motion for a continuance. Docket 67. A review of the Docket on February 21, 2025 reveals nothing new has been filed with the court.

As part of the court continuing this matter, opposition was to be filed by February 11, 2025, and replies were to be filed and served on or before February 18, 2025.

At the hearing, counsel for the Debtor reported that the appraisal has bee obt6ined and exchanged. They7 are reviewing the appraisals and continuing in their discussions to resolve this matter.

The hearing on the Objection to Confirmation is continued to 2:00 p.m. on April 8, 2025, for a Status and Scheduling Conference.

APRIL 8, 2025 STATUS CONFERENCE

At the Status Conference, counsel for the Debtor reported that there are two concerns to address. First, Debtor's Motion to Avoid Judicial Lien, and second, the Motion to Value Secured Claim.

The Debtor's appraiser needs to provide an update to the Appraisal Report confirming that his opinion of value is for the 2024 value (the Report containing what appears to be a typo making reference to 2023).

The Motion to Value, if granted, then resolves the two Objections to Confirmation.

Creditor reports that it is reviewing the financial information provided by the Debtor and needs additional time to complete the review.

The Parties agreed that the Motion to Value and the two Objections to Confirmation shall all be continued to 2:00 p.m. on May 6, 2025.

The court shall issue an 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 Confirmation filed by Kristofer Orre and Sarah Orre, Creditors, 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 Confirmation is **xxxxxxx**.

26. 24-23271-E-13 DPC-1 | **BARBARA DODGE** **Eric Schwab** | **CONTINUED STATUS CONFERENCE RE: OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK** **9-11-24 [19]**

Debtor's Atty: Eric John Schwab

Notes:
Continued from 2/25/25. Counsel for the Debtor reported that the appraisal has been obtained and exchanged. They are reviewing the appraisals and continuing in their discussions to resolve this matter.

The Objection to Confirmation is xxxxxxx.

REVIEW OF OBJECTION

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Plan on the basis that:

1. Debtor Barbara Ann Dodge's ("Debtor") Plan relies on a Motion to Avoid Judicial Lien, and if the Motion is not granted, the Plan is not confirmable because it will fail the liquidation test. Obj. 2:3-14, Docket 19.

Trustee submits the Declaration of Trina Hayek to authenticate the facts alleged in the Objection. Decl., Docket 21.

DISCUSSION

Debtor's Reliance on Motion to Avoid Judicial Lien

Debtor's Plan relies on avoiding the judicial lien of Kristofer Orre and Sarah Orre ("Creditor"). If Debtor succeeds on that Motion and the claim is placed in the general unsecured class of creditors, then Debtor's Plan passes the liquidation test. However, if the Motion does not succeed and Creditor's claim stays secured, Debtor's Plan will not provide unsecured creditors with more than what they would receive under a Chapter 7. 11 U.S.C. §1325(a)(4) provides "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."

At the hearing, the parties requested that the hearing be continued to 2:00 p.m. on November 5, 2024. The hearing on the Debtor's Motion to avoid the judicial lien of Creditor has been continued to that time and date.

The hearing on the Objection to Confirmation of Plan is continued to 2:00 p.m. on November 5, 2024.

November 5, 2024 Hearing

The court continued the two related matters to December 10, 2024. Dockets 43, 44. Therefore, the court continues the hearing on Trustee's Objection to the same time and date to be heard in conjunction with the related matters at 2:00 p.m. on December 10, 2024.

January 14, 2025 Hearing

The court continued the hearing on this Objection to be heard with the related Objection and Motion to Avoid Lien. A review of the Docket on January 9, 2025 reveals nothing new has been filed with the court.

February 25, 2025 Hearing

The court continued the hearing on this Objection to be heard with the related Creditor's Objection to Confirmation and Motion to Avoid Lien. As part of the court continuing this matter, opposition was to be filed by February 11, 2025, and replies were to be filed and served on or before February 18, 2025. A review of the Docket on February 21, 2025 reveals nothing new has been filed with the court.

At the hearing, counsel for the Debtor reported that the appraisal has bee obtained and exchanged. They7 are reviewing the appraisals and continuing in their discussions to resolve this matter.

The hearing on the Objection to Confirmation is continued to 2:00 p.m. on April 8, 2025, for a Status and Scheduling Conference.

APRIL 8, 2025 STATUS CONFERENCE

At the Status Conference, counsel for the Debtor reported that there are two concerns to address. First, Debtor's Motion to Avoid Judicial Lien, and second, the Motion to Value Secured Claim.

The Debtor's appraiser needs to provide an update to the Appraisal Report confirming that his opinion of value is for the 2024 value (the Report containing what appears to be a typo making reference to 2023).

The Motion to Value, if granted, then resolves the two Objections to Confirmation.

Creditor reports that it is reviewing the financial information provided by the Debtor and needs additional time to complete the review.

The Parties agreed that the Motion to Value and the two Objections to Confirmation shall all be continued to 2:00 p.m. on May 6, 2025.

The Objection to Confirmation is under review, with the Creditor reviewing financial records of the Debtor. Creditor is about halfway through the review of the documents. Cont 2:00 pm. On May 6, 2025.

The court shall issue an 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 Confirmation filed by David Cusick, the Chapter 13 Trustee, 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 Confirmation is **XXXXXXX**.

27. 25-20872-E-13 EAT-1 | **ALLISON HINGST ELO** **Pro Se** | **OBJECTION TO CONFIRMATION OF PLAN BY LAKEVIEW LOAN SERVICING, LLC** **3-27-25 [20]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor (*pro se*), Chapter 13 Trustee, and Office of the United States Trustee on March 27, 2025. By the court's calculation, 40 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection. At the hearing ----------.

The Objection to Confirmation of Plan is sustained.

Lakeview Loan Servicing, LLC ("Creditor"), opposes confirmation of the Plan on the basis that:

1. Debtor Allison Marie Hingst Elo ("Debtor") does not provide for curing the arrearage on creditor's claim or ongoing monthly payments. Obj. 3:1-10.

DISCUSSION

Improper Treatment of Creditor's Secured Claim

Creditor has filed a Proof of Claim (POC 5-1) where it asserts a secured claim in the amount of $371,486.16. According to this District's standard Plan Form, EDC 003-080, "[t]he proof of claim, not this plan or the schedules, shall determine the amount and classification of a claim unless the court's disposition of a claim objection, valuation motion, or lien avoidance motion affects the amount or classification of the claim." Plan Form EDC 003-080, § 3.02. Debtor has not complied with this language, instead not providing for Creditor's secured claim and not providing for the correct amount of arrears. Plan § 3.08, Docket 6. Such treatment is impermissible without there being a Motion to Value or Objection to Claim granted by the court.

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

The court shall issue an 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 Lakeview Loan Servicing, LLC ("Creditor") holding a secured claim 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 Confirmation of the Plan is sustained, and the proposed Chapter 13 Plan is not confirmed.

28. 25-21073-E-13 DPC-1 | **HEATHER REIMUND** / **Mark Shmorgon** | **OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK** / **4-16-25 [16]**

Item 28 thru 30

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 16, 2025. By the court's calculation, 20 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection. At the hearing ----------.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Plan on the basis that:

1. Debtor Heather Reimund ("Debtor") has not filed her tax returns for the years 2021 through 2024. Obj. 1:27-2:2.

Trustee submits the Declaration of Trina Hayek to authenticate the facts alleged in the Objection. Decl., Docket 18.

DISCUSSION

Failure to File Tax Returns

Debtor admitted at the Meeting of Creditors that the federal income tax returns for the 2021 through 2024 tax years have not been filed. Filing of the return is required. 11 U.S.C. §§ 1308, 1325(a)(9). Failure to file a tax return is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

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

The court shall issue an 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, David Cusick ("Trustee"), 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 Confirmation of the Plan is sustained, and the proposed Chapter 13 Plan is not confirmed.

29. 25-21073-E-13 JTK-1 — HEATHER REIMUND — Mark Shmorgon — OBJECTION TO CONFIRMATION OF PLAN BY THE MONEY BROKERS, INC. 4-16-25 [12]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, and Office of the United States Trustee on April 16, 2025. By the court's calculation, 20 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection. At the hearing **----------**.

The Objection to ~~Confirmation of Plan is sustained.~~

The Money Brokers, Inc. ("Creditor") holding a secured claim opposes confirmation of the Plan on the basis that:

1. It is not clear how Debtor Heather Reimund ("Debtor") will fund the Plan, if social security payments will go toward funding it. Obj. 1:20-24.

2. The valuation of debtor's home is incorrect. Debtor claims her real property located at 6647 20TH Street, Rio Linda, California, has a value of $1,000,000.00 ("Property"). However, Creditor estimated the Property has a fair market value no greater than $549,524.00. This Plan relies on selling or refinancing the home, and Debtor will not be able to do so if she has no equity. *Id.* at 2:1-11.

3. No Motion to Employ Broker on file.

    a. This has been resolved, the court hearing the Motion to Employ in conjunction with this Motion.

Creditor submits the Declaration of William H. Watson to authenticate the facts alleged in the Objection. Decl., Docket 14. Mr. Watson submits a Broker Price Opinion valuing the Property at $549,524.00. *Id.* at 2.

DISCUSSION

The Plan relies on selling or refinancing the Property to repay all creditors in full. Plan § 7.01, Docket 3. However, Creditor has submitted some evidence showing the Property does not contain enough equity to pay all creditors in full. At the hearing, **xxxxxxx**

~~The Plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). The Objection is sustained, and the Plan is not confirmed.~~

The court shall issue an 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 Money Brokers, Inc. ("Creditor") holding a secured claim 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 Confirmation of the Plan is sustained, and the proposed Chapter 13 Plan is not confirmed.~~

30. 25-21073-E-13 MS-1 | **HEATHER REIMUND** / **Mark Shmorgon** | **MOTION TO EMPLOY CAPITAL GROUP REALTY, INC. AS BROKER(S)** **4-18-25 [20]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the motion. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and all creditors and parties in interest on April 18, 2025. By the court's calculation, 18 days' notice was provided. 14 days' notice is required.

The Motion to Employ was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2). Debtor, creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing, unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. At the hearing, ----------.

The Motion to Employ is granted.

Heather Reimund ("Debtor") seeks to employ Capital Group Realty, Inc., Vladislav Okel ("Broker") pursuant to Local Bankruptcy Rule 9014-1(f)(2) and Bankruptcy Code Sections 328(a) and 330. Debtor seeks the employment of Broker to market and sell her real property located at 6647 20TH Street, Rio Linda, California.

Vladislav Okel testifies that he will provide the debtor with a Residential Listing Agreement to list and market the property for sale. Decl. ¶ 3, Docket 23. Vladislav Okel testifies he and the firm do not represent or hold any interest adverse to Debtor or to the Estate and that they have no connection with Debtor, creditors, the U.S. Trustee, any party in interest, or their respective attorneys. *Id.* at ¶ 8.

Pursuant to § 327(a), a trustee or debtor in possession is authorized, with court approval, to engage the services of professionals, including attorneys, to represent or assist the trustee in carrying out the trustee's duties under Title 11. To be so employed by the trustee or debtor in possession, the professional must not hold or represent an interest adverse to the estate and be a disinterested person.

Section 328(a) authorizes, with court approval, a trustee or debtor in possession to engage the professional on reasonable terms and conditions, including a retainer, hourly fee, fixed or percentage fee, or contingent fee basis. Notwithstanding such approved terms and conditions, the court may allow compensation different from that under the agreement after the conclusion of the representation, if such

terms and conditions prove to have been improvident in light of developments not capable of being anticipated at the time of fixing of such terms and conditions.

Taking into account all of the relevant factors in connection with the employment and compensation of Broker, considering the declaration demonstrating that Broker does not hold an adverse interest to the Estate and is a disinterested person, the nature and scope of the services to be provided, the court grants the motion to employ Capital Group Realty, Inc., Vladislav Okel as Broker for the Chapter 13 Estate. Approval of the commission is subject to the provisions of 11 U.S.C. § 328 and review of the fee at the time of final allowance of fees for the professional.

The court shall issue an 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 Employ filed by Heather Reimund ("Debtor") 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 Employ is granted, May 6, 2025, and Debtor is authorized to employ Capital Group Realty, Inc., Vladislav Okel as Broker for Debtor.
>
> **IT IS FURTHER ORDERED** that no compensation is permitted except upon court order following an application pursuant to 11 U.S.C. § 330 and subject to the provisions of 11 U.S.C. § 328.
>
> **IT IS FURTHER ORDERED** that no hourly rate or other term referred to in the application papers is approved unless unambiguously so stated in this order or in a subsequent order of this court.

31.	**25-20474-E-13** **CCR-1**	**OWEN BRADLEY / SHARECE BRIDGES VAN MEURS** **Thomas Amberg**	**CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY BARRY L. MONBLATT AND ELLEN C. MONBLATT, TRUSTEES OF THE MONBLATT TRUST DTD 9-3-87** **3-19-25 [19]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, and Office of the United States Trustee on March 19, 2025. By the court's calculation, 20 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection.

The Objection to Confirmation of Plan is xxxxxxx.

May 6, 2025 Hearing

The court continued the hearing on the Objection as the Parties reported that they were working out stipulated plan terms. A review of the Docket on April 30, 2025 reveals nothing has been filed related to this Objection.

At the hearing, **xxxxxxx**

REVIEW OF OBJECTION

Barry L. Monblatt and Ellen C. Monblatt, Trustees of the Monblatt Trust DTD 9-3-87 ("Creditor") holding a secured claim oppose confirmation of the Plan on the basis that:

1. Creditor's claim is secured by a second position deed of trust on the real property of Debtor Owen Powell Bradley and Sharece Bridges Van Meurs ("Debtor") commonly known as 19148 Connie Drive, Grass Valley, CA 95949 ("Property").

2. Per the bankruptcy schedules, the Property is valued at $560,000 and is encumbered by a first deed of trust in the amount of $115,000.00. Secured Creditor's debt is $180,662.09, with monthly interest only payments of $1,865.33. The Note in favor of Secured Creditors becomes due on February 1, 2027. Obj. 1:26-2:3.

3. Despite this being a 15 month plan, Secured Creditors' claim is treated as a Class 2(A) claim rather than a Class 1 claim. Further, Debtors propose a reduced interest rate of 6%, with a $300 per month adequate protection payments for 15 months. Therefore, it is Secured Creditors' position that their claim has been misclassified, the loan is being improperly modified, and the plan is not feasible. *Id.* at 2:4-8.

Creditor submits the Declaration of Barry L. Monblatt to authenticate the facts alleged in the Objection. Decl., Docket 22.

DISCUSSION

Misclassified Claims

Debtor has classified Creditor in Class 2(a) of their Plan, which Class deals with "all secured claims that are modified by this plan, or that have matured or will mature before the plan is completed." Plan § 3.08, Docket 3. The clear language of the Plan would permit a secured claim to be placed into Class 2(a), even if it matures after completion of the Plan, if the claim is modified. The record shows the claim is modified under the version of this Plan as to the interest that will be paid on the claim. The contractual rate of interest on the claim is 13.99% according to Creditor, and the Plan proposes to modify this amount. This objection is without merit.

Providing for a Secured Claim

Creditor asserts a claim of $180,662.09 in this case. Debtor's Schedule D estimates the amount of Creditor's claim as $160,000.00 and indicates that it is secured by a second deed of trust on Debtor's residence. Schedule D, Docket 1 p. 22. The Plan provides for treatment of this as a Class 2 claim.

Creditor alleges that the Plan is not feasible and violates 11 U.S.C. § 1322(b)(2) because it does not fully provide for payment of Creditor's entire obligation, and at the proper interest rate, which is secured by Debtor's residence. *See* 11 U.S.C. § 1325(a)(6).

11 U.S.C. § 1322(a) is the section of the Bankruptcy Code that specifies the mandatory provisions of a plan. It requires only that a debtor adequately fund a plan with future earnings or other future income that is paid over to Trustee (11 U.S.C. § 1322(a)(1)), provide for payment in full of priority claims (11 U.S.C. § 1322(a)(2) & (4)), and provide the same treatment for each claim in a particular class (11

U.S.C. § 1322(a)(3)). Nothing in § 1322(a) compels a debtor to propose a plan that provides for a secured claim, however.

11 U.S.C. § 1322(b) specifies the provisions that a plan may include at the option of the debtor. With reference to secured claims, the debtor may not modify a claim secured only by the debtor's primary residence, but may modify other secured claims (11 U.S.C. § 1322(b)(2)). Notwithstanding the forgoing limitation, 11 U.S.C. § 1322(b)(3) authorizes the curing of any default on a secured claim—including a home loan. In addition, the Plan may provide for maintaining ongoing contract installment payments on a secured claim while curing default on such secured claim. 11 U.S.C. § 1322(b)(5).

If a debtor elects to provide for a secured claim, 11 U.S.C. § 1325(a)(5) gives the debtor three options:

A. Provide a treatment that the debtor and creditor agree to (11 U.S.C. § 1325(a)(5)(A)),

B. Provide for payment in full of the entire claim if the claim is modified or will mature by its terms during the term of the Plan (11 U.S.C. § 1325(a)(5)(B)), or

C. Surrender the collateral for the claim to the creditor (11 U.S.C. § 1325(a)(5)(C)).

11 U.S.C. § 1322(c) states:

(c) Notwithstanding subsection (b)(2) and applicable nonbankruptcy law—

> (1) a default with respect to, or that gave rise to, a lien on the debtor's principal residence may be cured under paragraph (3) or (5) of subsection (b) until such residence is sold at a foreclosure sale that is conducted in accordance with applicable nonbankruptcy law; and
>
> (2) in a case in which the last payment on the original payment schedule for a claim secured only by a security interest in real property that is the debtor's principal residence is due before the date on which the final payment under the plan is due, the plan may provide for the payment of the claim as modified pursuant to section 1325(a)(5) of this title.

Of note, 11 U.S.C. § 1322(c) would allow Debtor to modify the claim secured by the principal residence, but only if the claim matures before the completion of the Plan. There may be some solution available where Debtor extends the term of this Plan but includes in Plan provisions a tight deadline to achieve the refinance.

Interest Rate

Creditor objects to the confirmation of the Plan on the basis that the Plan calls for adjusting the interest rate on its loan with Debtor to 6%. Creditor's claim is secured by the Property and is only permitted to be modified pursuant to 11 U.S.C. § 1322(c), if applicable here.

Creditor argues that this interest rate is outside the limits authorized by the Supreme Court in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). In *Till*, a plurality of the Court supported the "formula approach" for fixing post-petition interest rates. *Id.* Courts in this district have interpreted *Till* to require the use of the formula approach. *See In re Cachu*, 321 B.R. 716 (Bankr. E.D. Cal. 2005); *see also Bank of Montreal v. Official Comm. of Unsecured Creditors (In re American Homepatient, Inc.)*, 420 F.3d 559, 566 (6th Cir. 2005) (*Till* treated as a decision of the Court). Even before *Till*, the Ninth Circuit had a preference for the formula approach. *See Cachu*, 321 B.R. at 719 (citing *In re Fowler*, 903 F.2d 694 (9th Cir. 1990)).

The court agrees with the court in *Cachu* that the correct valuation of the interest rate is the prime rate in effect at the commencement of this case plus a risk adjustment. Creditor notes that its claim is in default, but it conveniently omits the relevant fact that Creditor is highly oversecured as there is substantial equity in the Property. Therefore, the court does not include any risk adjustment in the prime rate of interest, in the event this claim is modified pursuant to 11 U.S.C. § 1322(c).

APRIL 8, 2025 HEARING

At the hearing, the Parties reported that they are working out stipulated plan terms and requested that the hearing be continued.

The hearing on the Objection to Confirmation of Plan is continued to 2:00 p.m. on May 6, 2025.

The court shall issue an 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 Barry L. Monblatt and Ellen C. Monblatt, Trustees of the Monblatt Trust DTD 9-3-87 ("Creditor") holding a secured claim 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 Confirmation of Plan is **xxxxxxx**.

32. 19-27175-E-13 PGM-5 | **ADAM/SHERRI NEWLAND** **Peter Macaluso** | **MOTION TO MODIFY PLAN** **3-21-25 [142]**

Item 32 thru 33

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor and creditors that have filed claims on March 21, 2025. By the court's calculation, 46 days' notice was provided. 35 days' notice is required. FED. R. BANKR. P. 2002(a)(5) & 3015(h) (requiring twenty-one days' notice); LOCAL BANKR. R. 3015-1(d)(2) (requiring fourteen days' notice for written opposition).

The Motion to Confirm the Modified Plan has been set for hearing on the notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Opposition having been filed, the court will address the merits of the motion at the hearing. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Motion to Confirm the Modified Plan is granted.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The debtor, Adam Scott Newland and Sherri Ann Newland ("Debtor"), have filed evidence in support of confirmation. *See* Decl., Docket 144.

The Chapter 13 Trustee, David Cusick ("Trustee"), filed a Response indicating non-opposition on April 21, 2025, requesting the Order confirming the Plan specifies that the distribution to unsecured creditors be 19.99%. Docket 151. Debtor is amenable to this amendment. Reply, Docket 154. The Modified Plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329 and is confirmed.

The court shall issue an 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 the Modified Chapter 13 Plan filed by the debtor, Adam Scott Newland and Sherri Ann Newland ("Debtor") 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, and Debtor's Modified Chapter 13 Plan filed on March 21, 2025, is confirmed, as amended to state that the distribution to general unsecured creditors is no less than 19.99%. Debtor's Counsel shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee, David Cusick ("Trustee"), for approval as to form, and if so approved, the Trustee will submit the proposed order to the court.

33. 19-27175-E-13 DPC-6 | **ADAM/SHERRI NEWLAND** | **Peter Macaluso** | **CONTINUED MOTION TO DISMISS CASE** | **2-19-25 [138]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on February 19, 2025. By the court's calculation, 56 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Debtor filed opposition. If it appears at the hearing that disputed, material, factual issues remain to be resolved, then a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Motion to Dismiss is denied without prejudice.

May 6, 2025 Hearing

The court continued the hearing to be heard in conjunction with the Motion to Confirm the Modified Plan. The court intends to grant that Motion. Therefore, the Motion to Dismiss is denied without prejudice.

REVIEW OF MOTION

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Adam Scott Newland and Sherri Ann Newland ("Debtor"), is delinquent $50,605.22 in plan payments. This case is currently in month 63

of a 60-month plan so the delinquent amount is the amount required to complete the case in February 2025. Mot. 1:25-28, Docket 138.

Trustee submitted the Declaration of Kristen Koo to authenticate the facts alleged in the Motion. Decl., Docket 140.

DEBTOR'S RESPONSE

Debtor filed a Response and supporting Declaration on March 21, 2025. Dockets 147-48. Debtor states the Plan has been completed and there is a Modified Plan on file to address the percentage to unsecured creditors.

DISCUSSION
Delinquent

Debtor is $50,605.22 delinquent in plan payments, which represents multiple months of the $6,800.00 plan payment. Before the hearing, another two plan payments will be due. Failure to make plan payments is unreasonable delay that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

The previously confirmed Plan at Docket 91 provides for a 100% payment to unsecured creditors in the amount of $49,234.93. Debtor is in month 63 of a 60 month Plan and now proposes to file a Modified Plan that pays unsecured creditors a 9.5% dividend, but also in the amount of $49,234.93. There is no mention from Debtor as to curing the massive delinquency. Moreover, Debtor has not presented the court with any law allowing them to Modify the Plan after 60 months.

Congress provides in 11 U.S.C. § 1329 for the modification of Chapter 13 Plan after confirmation, stating in pertinent part:

> 1329. Modification of plan after confirmation
>
> (a) **At any time after confirmation of the plan** *but before the completion of payments* under such plan, the plan may be modified, upon request of the debtor, the trustee, or the holder of an allowed unsecured claim, to—
>
> (1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;
>
> (2) extend or reduce the time for such payments;
>
> (3) **alter the amount of the distribution to a creditor whose claim is provided for by the plan to** the extent necessary to take account of any payment of such claim other than under the plan; or . . . .
>
> . . .
>
> (c)A plan modified under this section may not provide for payments over a period that expires after the applicable commitment period under section 1325(b)(1)(B) after the time that the first payment under the original confirmed plan was due, unless the court, for cause, approves a longer period, but the court may not approve a period that expires after five years after such time.

Confirmed Plans in This Bankruptcy Case

On June 11, 2020, the court entered an Order confirming the Original Chapter 13 Plan (Dckt. 2) filed by Debtor. With respect to general unsecured claims, the Original Plan provided for a not less than 0.00% dividend for general unsecured claims totally approximately $73,836.50. Orig. Plan, ¶ 3.14; Dckt. 2.

On February 22, 2021, the court entered an Order (Dckt. 69) confirming the First Modified Chapter 13 Plan (Dckt. 58). The First Modified Plan provided for a not less than 0.00% dividend for general unsecured claims totally approximately $49,234.93. First Mod. Plan, ¶ 3.14; Dckt. 58.

On June 21, 2022, the court entered an Order (Dckt. 109) confirming the Second Modified Chapter 13 Plan (Dckt. 91). The Second Modified Plan provided for a not less than 100% dividend for general unsecured claims totally approximately $49,234.93. Second Mod. Plan, ¶ 3.14; Dckt. 91. Debtor's Declaration in support of confirmation of the Second Modified Plan provides a detailed discussion of the medical issues impacting Debtor that caused the default. Dckt. 89.

On March 21, 2025, Debtor filed the Third Modified Plan (Dckt. 145) that is before the court. The latest modification seeks to reduce the not less than 100% dividend required to be paid creditors under the Confirmed Second Modified over the last 20 months to just 9.5%.

In the Motion to Confirm the Third Modified Plan, it is alleged that:

> 3. Due to a change in circumstances, Debtors cannot complete the plan as originally confirmed as stated under penalty of perjury in the accompanying Declaration of Debtors. In that Declaration, Debtors state, "We have completed our Plan and are amending the Plan to adjust the percentage to unsecured creditors."

Motion, ¶ 3; Dckt. 142.

Reviewing the Debtor's Declaration in Support of the Motion, there are no "change in circumstances" identified. Dec.; Dckt. 144. It merely states that the Plan has been completed (Dec. ¶ 2), have funding the plan with $359,461.35 (Dec. ¶ 3), and now seek to modify the Confirmed Second Modified Plan to provide for a 9.5% dividend to creditors holding general unsecured claims (Dec. ¶ 2). Dec.; Dckt. 144.

The Confirmed Second Modified Plan required the Debtor to make Plan payments totaling the following:

A. Plan Month 1 through April 2022.....$139,187.37 and
B. Plan Payment of $6,800 for Remaining 31 Months....$210,800.00,

for Chapter 13 Plan payments totaling $359,987.37. Second Mod. Plan; § 7; Dckt. 91 at 7.

Creditor Claims to be paid in the Confirmed Second Modified Plan are computed as follows:

Creditor	Amount of Claim in Plan	Interest Rate/Monthly Payment	Total Amount to Be Paid on Claim

Class 1 PHH Sept, Oct., Nov. 2020 Post Petition Arrearage	($10,379.97)	0.00% Interest	($10,379.97)
Class 1 PHH Pre-Petition Arrearage	($23,940.56)	0.00% Interest	($23,940.56)
Class 2 Consumer Portfolio Services	($16,101.19)	5% Interest With $650 a Month Payments	($17,016.00)
Class 2 PPH Mt Sup Claim	($1,400.00)		($1,400.00)
Tesla Solar	($6,902.79)	7% Interest With $500 a Month Payments	($7,216.87)
Priority Claims	($55,163.93)	No Interest	($55,163.93)
General Unsecured Claims	($49,234.93)	No Interest	($49,234.93)
Chapter 13 Trustee's Fees		Assumed 7% of $359,416.35 Plan Payments	($25,159.15)
			==========
	Total of Claims to Be Paid Through the Confirmed Second Modified Plan.		($189,511.41)

The forgoing is a very rough computation of the claims to be paid through the Plan. As noted above, there were defaults that occurred and payments were stretched out. However, the interest accrual would appear to be modest.

For the priority claims, the Internal Revenue Service asserted a priority claim of ($38,415.66), Proof of Claim 1-1, and the Franchise Tax Board asserts its priority claim in the amount of ($16,748.27), Proof of Claim 5-1. These total ($55,163.93), the exact number used in the Confirmed Second Modified Plan.

It is not clear to the court that if the Confirmed Second Modified Plan has been funded with $359,987.37 and the listed claims and payments to be made on the Claims total around ($189,511.41), why there is not a 100% dividend on general unsecured claims.

The proposed Third Modified Plan states that Debtor has funded the Plan with $359,461.35, which is greater than the amount as computed by the court under the Confirmed Second Modified Plan. Third Mod. Plan, § 7; Dckt. 145 at 7.

If the Plan has been fully funded as provided in the Confirmed Second Modified Plan, then it appears that there may have been a gross mis-computation of the plan payments necessary to fund a 100% divided to creditors holding general unsecured claims.

Continuance of Hearing

The hearing on the Motion to Dismiss is continued to 2:00 p.m. on May 6, 2025, to be conducted in conjunction with the hearing on the Motion to Confirm Amended Plan.

The court shall issue an 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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick ("Trustee"), 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 Dismiss is denied without prejudice.

34. 25-20676-E-13 DPC-1 — JOSEPHINE HODGES / Mohammad Mokarram — OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK 4-9-25 [13]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 9, 2025. By the court's calculation, 27 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection. At the hearing **----------**.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Plan on the basis that:

1. Debtor Josephine Maria Hodges's ("Debtor") Plan is overextended as proposed because the IRS' claim came in at $17,305.77 with $17,003.94 being a priority claim, but Debtor's Plan only estimates the priority portion in the amount of $12,600. Obj. 2:1-10.

Trustee submits the Declaration of Trina Hayek to authenticate the facts alleged in the Objection. Decl., Docket 15.

DISCUSSION

Overextended Plan

As the IRS' claim came in higher than Debtor anticipated, the Plan will take 71 months to complete. 11 U.S.C. § 1322(d)(1)(C) states, "the plan may not provide for payments over a period that is longer than 5 years." Failure to comply with the statutory length provided for a Plan is cause to sustain the objection.

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

The court shall issue an 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, David Cusick ("Trustee"), 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 Confirmation of the Plan is sustained, and the proposed Chapter 13 Plan is not confirmed.

35. 25-21077-E-13 DPC-1 | **ANNE WEBER** / **John Downing** | **OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK** / **4-16-25 [30]**

Item 35 thru 36

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 16, 2025. By the court's calculation, 20 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection. At the hearing ----------.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Plan on the basis that:

1. Debtor Anne Marie Weber ("Debtor") failed to submit business documents. Obj. 2:4-19.

2. Trustee also requires clarification on how attorney's fees will be paid. There is no clear direction on paying the attorney fee dividend. *Id.* at 2:20-3:5.

3. Debtor has not provided a business attachment although indicating on Schedule I, Question #8h Debtor receives rental income. *Id.* at 3:6-12.

4. Debtor should amend her Schedule J. Currently, she lists $0 for utilities. *Id.* at 3:19-25.

Trustee submits the Declaration of Angelina Fernandez to authenticate the facts alleged in the Objection. Decl., Docket 32.

DISCUSSION

Failure to File Documents Related to Business

Debtor has failed to timely provide Trustee with business documents including:

A. Questionnaire,
B. Two years of tax returns,
C. Six months of profit and loss statements, and
D. Six months of bank account statements,

11 U.S.C. §§ 521(e)(2)(A)(i), 704(a)(3), 1106(a)(3), 1302(b)(1), 1302(c); FED. R. BANKR. P. 4002(b)(2) & (3). Debtor is required to submit those documents and cooperate with Trustee. 11 U.S.C. § 521(a)(3). Without Debtor submitting all required documents, the court and Trustee are unable to determine if the Plan is feasible, viable, or complies with 11 U.S.C. § 1325.

Failure to File Business Documents Required by Schedule I

Debtor has failed to file a statement of gross business income and expenses attached to Schedule I. Line 8a of Schedule I requires Debtor to "[a]ttach a statement for each property and business showing gross receipts, ordinary and necessary business expenses, and the total monthly net income." Debtor is required to submit that statement and cooperate with Trustee. 11 U.S.C. § 521(a)(3). Debtor has not provided the required attachment.

Attorneys Fees

The most recent version of Local Bankruptcy Rule 2016-1(c), the court's no-look fee provision, provides for a no-look fee in a non-business case to be in the amount of $12,000. 25% can be paid prepetition as a retainer, and then next 25% can be paid upon plan confirmation. The remaining 50% is to be paid in equal monthly installments over the life of the Plan.

In clarifying the monthly distribution toward attorney's fees, at the hearing, **xxxxxxx**

Inaccurate or Missing Information

Debtor's Schedule J contains outdated or inaccurate information. Without an accurate picture of debtor's financial reality, the court is unable to determine if the Plan is confirmable. *See* 11 U.S.C. § 1325(a)(6).

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

The court shall issue an 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, David Cusick ("Trustee"), 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 Confirmation of the Plan is sustained, and the proposed Chapter 13 Plan is not confirmed.

36. 25-21077-E-13 DW-1 | **ANNE WEBER** / **John Downing** | **OBJECTION TO CONFIRMATION OF PLAN BY TOYOTA MOTOR CREDIT CORPORATION** **4-11-25 [27]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 trustee, and Office of the United States Trustee on April 11, 2024. By the court's calculation, 25 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection. At the hearing ----------.

The Objection to Confirmation of Plan is sustained.

Toyota Motor Credit Corporation ("Creditor"), opposes confirmation of the Plan on the basis that:

1. Debtor Anne Marie Weber ("Debtor") does not provide for the proper interest rate on Creditor's Claim. Obj. 2:4-5.

DISCUSSION
Interest Rate

Creditor objects to the confirmation of the Plan on the basis that the Plan calls for adjusting the interest rate on its loan with Debtor to 0%. Creditor's claim is secured by a 2019 Toyota Tundra. Creditor argues that this interest rate is outside the limits authorized by the Supreme Court in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). In *Till*, a plurality of the Court supported the "formula approach" for fixing post-petition interest rates. *Id.* Courts in this district have interpreted *Till* to require the use of the formula approach. *See In re Cachu*, 321 B.R. 716 (Bankr. E.D. Cal. 2005); *see also Bank of Montreal v. Official Comm. of Unsecured Creditors (In re American Homepatient, Inc.)*, 420 F.3d 559, 566 (6th Cir. 2005) (*Till* treated as a decision of the Court). Even before *Till*, the Ninth Circuit had a preference for the formula approach. *See Cachu*, 321 B.R. at 719 (citing *In re Fowler*, 903 F.2d 694 (9th Cir. 1990)).

The court agrees with the court in *Cachu* that the correct valuation of the interest rate is the prime rate in effect at the commencement of this case plus a risk adjustment. Because the creditor has only identified risk factors common to every bankruptcy case, the court fixes the interest rate as the prime rate in effect at the commencement of the case, 7.5%, plus a 1.25% risk adjustment, for a 8.75% interest rate. The objection to confirmation of the Plan on this basis is sustained. *See* 11 U.S.C. § 1325(a)(5)(B)(ii).

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

The court shall issue an 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, David Cusick ("Trustee"), 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 Confirmation of the Plan is sustained, and the proposed Chapter 13 Plan is not confirmed.

37. 25-20884-E-13 DPC-1 — STEPHEN/PATTI KOWALSKI — Carl Gustafson — OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK — 4-9-25 [12]

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Below is the court's tentative ruling, rendered on the assumption that there will be no opposition to the Objection. If there is opposition presented, the court will consider the opposition and whether further hearing is proper pursuant to Local Bankruptcy Rule 9014-1(f)(2)(C).

Local Rule 9014-1(f)(2) Objection—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Objection and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on April 9, 2025. By the court's calculation, 27 days' notice was provided. 14 days' notice is required.

The Objection to Confirmation of Plan was properly set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and the procedure authorized by Local Bankruptcy Rule 3015-1(c)(4). Debtor, Creditors, the Chapter 13 Trustee, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offers opposition to the Objection, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the Objection. At the hearing **----------**.

The Objection to Confirmation of Plan is xxxxxxx.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Plan on the basis that:

1. Debtor Stephen Michael Kowalski and Patti June Kowalski ("Debtor") have failed to provide Trustee with business documents. Obj. 2:1-10.

2. Trustee is concerned Debtor's attorney charged the business case fee in the event this case is not a business case. Trustee further seeks clarification that the Plan will pay the remainder of attorney's fees in the amount of $395.83 per month for 36 months. *Id.* at 2:12-3:7.

Trustee submits the Declaration of Teryl Wegemer to authenticate the facts alleged in the Objection. Decl., Docket 14.

DISCUSSION

Failure to File Documents Related to Business

Debtor has failed to timely provide Trustee with business documents including:

A. Questionnaire,
B. Two years of tax returns,
C. Six months of profit and loss statements, and
D. Six months of bank account statements.

11 U.S.C. §§ 521(e)(2)(A)(i), 704(a)(3), 1106(a)(3), 1302(b)(1), 1302(c); FED. R. BANKR. P. 4002(b)(2) & (3). Debtor is required to submit those documents and cooperate with Trustee. 11 U.S.C. § 521(a)(3). Without Debtor submitting all required documents, the court and Trustee are unable to determine if the Plan is feasible, viable, or complies with 11 U.S.C. § 1325.

Business Case

Local Bankruptcy Rule 2016-1(c) permits a no-look fee of $18,000 in a Chapter 13 business case. A business case is defined as follows:

> For the purposes of this subdivision, there is a rebuttable presumption that any Chapter 13 case is a nonbusiness case. That presumption may be rebutted by a preponderance of the evidence where the original petition, schedules, and statements demonstrate that: (1) the debtor(s) or a contributing non-filing member of the debtor(s)' household has an ownership interest in a business, e.g., sole proprietorship, partnership, or an entity, i.e., an S corporation or LLC, in which profits and losses are passed through to the equity holders for tax purposes, or in one or more rental properties; and (2) either (A) without consideration of the amount due any purchase money residential mortgage lender, at least 51% of the scheduled debt arose out of business or rental operations; or (B) at least 51% of the debtor(s)' and/or contributing non-filing member of the debtor(s)' household's aggregate gross going forward income is attributable to the business or rental operations.

Local Bankruptcy Rule 2016-1(c)(1)(B).

The Rule would permit a case to be deemed as business case if either qualifier in (2) is met: at least 51% of the debtor(s)' and/or contributing non-filing member of the debtor(s)' household's aggregate gross going forward income is attributable to the business or rental operations, or at least 51% of the scheduled debt arose out of business or rental operations. Trustee does not discuss the possibility that at least 51% of the scheduled debt could have arisen out of business or rental operations, only discussing the fact that Debtor may not derive 51% of his income from the business.

On April 18, 2025, Debtor filed Amended Schedules I and J. Debtor included a business attachment showing monthly average gross income for Debtor's business in the amount of $6,950. Am. Schedule I at 3, Docket 16. The rule instructs the court is only to consider gross going forward income, not net income. Debtor's other source of income from Social Security dividends is $5,071.10. It appears Debtor therefore derives more than 50% of his gross income from the business.

Therefore, it appears this is a business case. At the hearing, **xxxxxxx**

The court shall issue an 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, David Cusick ("Trustee"), 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 Confirmation of the Plan is **XXXXXXX**.

38. 24-21091-E-13 SLG-4 | **KIANA ZAMORA** / **Joshua Sternberg** | **MOTION TO CONFIRM PLAN** / **3-24-25 [81]**

Item 38 thru 39

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—Hearing Required.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, Chapter 13 Trustee, creditors, attorneys of record, and Office of the United States Trustee on March 24, 2025. By the court's calculation, 43 days' notice was provided. 35 days' notice is required. FED. R. BANKR. P. 2002(a)(9); LOCAL BANKR. R. 3015-1(d)(1).

The Motion to Confirm the Amended Plan has been set for hearing on the notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Opposition having been filed, the court will address the merits of the motion at the hearing. If it appears at the hearing that disputed material factual issues remain to be resolved, a later evidentiary hearing will be set. LOCAL BANKR. R. 9014-1(g).

The Motion to Confirm the Amended Plan is denied.

The debtor, Kiana Calica Zamora ("Debtor"), seeks confirmation of the Amended Plan. The Amended Plan provides for monthly payments of $1,073.00 for months 1-4, $2,381.00 for month 5,

$5,550.00 for months 6-11, and $6,003.62 for months 12-60. Amended Plan, Docket 85. 11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation.

CHAPTER 13 TRUSTEE'S OPPOSITION

The Chapter 13 Trustee, David Cusick ("Trustee"), filed an Opposition on April 23, 2025. Docket 93. Trustee opposes confirmation of the Plan on the basis that:

A. The motion and declaration both state that the Debtor had paid certain post-petition mortgage payments directly to the creditor as evidenced by the Exhibit A filed with the motion. However, no Exhibit A was filed on the motion. Without being able to review that Exhibit and the proof of payments, the Trustee cannot recommend confirmation of the plan. *Id.* at 1:26-2:2.

In response to this point of opposition, the court would note that Debtor has improperly attached the Exhibit to her Declaration. Docket 83. The document is there for Trustee to view.

At the hearing, **xxxxxxx**

B. The Plan fails the liquidation test. *Id.* at 2:3-13.

C. The original filed plan failed to check the box at §3.05. Once the election has been made, it cannot be changed in subsequent plans. In the proposed plan, the Debtor has checked the box as "complying with Local Bankruptcy Rule 2016-1(c)". The Trustee objects to the Attorney trying to "opt in" to the Local Rules payment of attorney's fees without a separate fee application filed with the Court. *Id.* at 2:14-20.

DISCUSSION

Liquidation Analysis

Trustee argues that Debtor fails a liquidation analysis under 11 U.S.C. §1325(a)(4). 11 U.S.C. §1325(a)(4) provides "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." Here, General unsecured creditors will receive a 0% distribution, Plan, Docket 11 § 3.12, but Trustee estimates Debtor has $14,322.78 in non-exempt equity in assets of the estate. The Plan fails liquidation.

Attorney's Fee Election

According to Local Bankruptcy Rule 2016-1(e):

Debtor's counsel shall elect compensation under subdivision (b) or subdivision (c) in the first Chapter 13 plan filed, i.e., Chapter 13 plan § 3.05, EDC 3-080. Any failure to elect compensation in the first Chapter 13 plan filed shall be deemed an

election to seek compensation and expenses under subdivision (b). Except as provided in Rule 60, that election, or failure to elect, is irrevocable. Fed. R. Civ. P. 60, incorporated by Fed. R. Bankr. P. 9024.

In this case, Debtor's initial Plan at Docket 3 failed to make an election. Therefore, Debtor's attorney must seek compensation by Motion. Debtor has attempted to change this election in the recent version of the Plan by checking the box opting into the no-look fee arrangement. Amended Plan, Docket 85.

At the hearing, **xxxxxxx**

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

The court shall issue an 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 the Amended Chapter 13 Plan filed by the debtor, Kiana Calica Zamora ("Debtor") 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 Confirm the Amended Plan is denied, and the proposed Chapter 13 Plan is not confirmed.

39. 24-21091-E-13 DPC-3 | **KIANA ZAMORA** **Joshua Sternberg** | **CONTINUED MOTION TO DISMISS CASE** **2-10-25 [77]**

Tentative Ruling: Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on Debtor, Debtor's Attorney, and Office of the United States Trustee on February 10, 2025. By the court's calculation, 65 days' notice was provided. 28 days' notice is required.

The Motion to Dismiss has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues, and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The Motion to Dismiss is xxxxxxx.

MAY 6, 2025 HEARING

The court continued the hearing on this Motion to be heard in conjunction with Debtor's Motion to Confirm the Amended Plan. There are issues with this version of the Plan that may prevent confirmation.

At the hearing, **xxxxxxx**

REVIEW OF MOTION

The Chapter 13 Trustee, David Cusick ("Trustee"), seeks dismissal of the case on the basis that:

1. The debtor, Kiana Calica Zamora ("Debtor"), is engaging in unreasonable delay that is prejudicial to creditors. Debtor's Motion to Confirm an amended Plan was denied by the Court on December 17, 2024. Debtor has failed to file an amended Plan and set a hearing to confirm the amended plan. Mot. 1:24-26, Docket 77.

Trustee submitted the Declaration of Trina Hayek to authenticate the facts alleged in the Motion. Decl., Docket 79.

OPPOSITION FILED BY DEBTOR

On March 28, 2025, the Debtor filed an Opposition to the Trustee's Motion to Dismiss. Opp;; Dckt. 87. However, it was filed under Docket Control No. SLG-4, which is the Docket Control Number for Debtor's Motion to Confirm Fourth Amended Plan. The hearing on the Motion to Confirm Plan is set for 2:00 p.m. on May 6, 2025.

The Opposition asserts that Debtor is current on all plan payments and all post-petition payments.

DISCUSSION

Debtor's Fourth Amended Plan requires monthly Plan payments of $1,073.00 for 4 months, $2,381 for month 5, $4,440 for months 6-11, and $6,003.62 for months 12-60. Fourth Amd. Plan, § 7; Dckt. 85 at 8. Debtor's Declaration in Support of Confirmation (Dckt. 83) does not discuss how Debtor will be able to afford the substantially larger payments in months 6 through 60 under the Plan.

The hearing on the Motion to Dismiss is continued to 2:00 p.m. on May 6, 2025, (Specially Set Day and Time) to be conducted in conjunction with the Hearing on the Motion for Confirmation of Debtor's Fourth Amended Chapter 13 Plan.

The court shall issue an 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 Dismiss the Chapter 13 case filed by The Chapter 13 Trustee, David Cusick ("Trustee"), 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 Dismiss is **XXXXXXX**.

FINAL RULINGS

40. 22-21614-E-13 PSB-1 — ARMANDO ALBARRAN — Pauldeep Bains — MOTION TO MODIFY PLAN — 3-19-25 [23]

Final Ruling: No appearance at the May 6, 2025 Hearing is required.

Local Rule 9014-1(f)(1) Motion—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Motion and supporting pleadings were served on all creditors and parties in interest on March 20, 2025. By the court's calculation, 47 days' notice was provided. 35 days' notice is required. FED. R. BANKR. P. 2002(a)(5) & 3015(h) (requiring twenty-one days' notice); LOCAL BANKR. R. 3015-1(d)(2) (requiring fourteen days' notice for written opposition).

The Motion to Confirm the Modified Plan has been set for hearing on the notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). Failure of the respondent and other parties in interest to file written opposition at least fourteen 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) (upholding a court ruling based upon a local rule construing a party's failure to file opposition as consent to grant a motion). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006). Therefore, the defaults of the respondent and other parties in interest are entered. Upon review of the record, there are no disputed material factual issues and the matter will be resolved without oral argument. The court will issue its ruling from the parties' pleadings.

The Motion to Confirm the Modified Plan is granted.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The debtor, Armando Castro Albarran ("Debtor"), has filed evidence in support of confirmation. *See* Decl., Docket 25; Ex., Docket 26. The Chapter 13 Trustee, David Cusick ("Trustee"), filed a Response indicating non-opposition on April 22, 2025. Docket 39. Trustee expressed concerns that amended Schedules I and J were not served; however, on April 23, 2025, Debtor served the Amended Schedules. Docket 41. The Modified Plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329 and is confirmed.

The court shall issue an 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 the Modified Chapter 13 Plan filed by the debtor, Armando Castro Albarran ("Debtor") 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, and Debtor's Modified Chapter 13 Plan filed on March 19, 2025, is confirmed. Debtor's Counsel shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee, David Cusick ("Trustee"), for approval as to form, and if so approved, the Trustee will submit the proposed order to the court.

41. 24-24390-E-13 PLC-3 | **TARRA WASILCHEN** | **MOTION TO MODIFY PLAN**
Peter Cianchetta | **3-27-25 [49]**

Final Ruling: No appearance at the May 6, 2025 hearing is required.

The Motion to Confirm the Amended Plan has been continued by prior order issued on April 24, 2025. Order, Docket 70.

The hearing on the Motion has been continued to 2:00 p.m. on July 24, 2025.