



UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable Jennifer E. Niemann  
Hearing Date: Thursday, May 9, 2024  
Department A – 510 19<sup>th</sup> street  
Bakersfield, California

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***At this time, when in-person hearings in Bakersfield will resume is to be determined. No persons are permitted to appear in court for the time being. All appearances of parties and attorneys shall be as instructed below.***

Unless otherwise ordered, all matters before the Honorable Jennifer E. Niemann shall be simultaneously: (1) via **ZoomGov Video**, (2) via **ZoomGov Telephone**, and (3) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

**Unauthorized Recording is Prohibited:** Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued media credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

## INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

**No Ruling:** All parties will need to appear at the hearing unless otherwise ordered.

**Tentative Ruling:** If a matter has been designated as a tentative ruling it will be called, and all parties will need to appear at the hearing unless otherwise ordered. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

**Orders:** Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

**THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.**

1. [23-12130](#)-A-13     **IN RE: PAMELA MULLEN**  
[RSW-2](#)

CONTINUED MOTION TO CONFIRM PLAN  
2-29-2024    [\[38\]](#)

PAMELA MULLEN/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Denied as moot.

ORDER:             The court will issue an order.

This motion is DENIED AS MOOT. The debtor filed a modified plan on May 3, 2024 (RSW-3, Doc. #54), with a motion to confirm the modified plan set for hearing on June 6, 2024 at 9:00 a.m. Doc. ##53-58.

2. [23-12338](#)-A-13     **IN RE: SALINA THOMAS**

MOTION TO CONFIRM PLAN  
3-15-2024    [\[62\]](#)

SALINA THOMAS/MV  
DAVID CHUNG/ATTY. FOR DBT.  
RESPONSIVE PLEADING

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Denied without prejudice.

ORDER:             The court will issue an order.

Debtor Salina Refugio Thomas ("Debtor") filed and served this motion to confirm the second amended chapter 13 plan pursuant to Local Rule of Practice ("LBR") 3015-1(d)(1) and set that motion for hearing on May 9, 2024. Doc. ##62-64. The chapter 13 trustee ("Trustee") filed an opposition to Debtor's motion. Doc. #65. Debtor responded to Trustee's opposition. Doc. #67. In consideration of Debtor's response, Trustee now opposes the motion on two grounds: (1) Debtor has not filed a declaration in support of the motion; and (2) counsel for Debtor did not include a Docket Control Number on the motion. Doc. #71.

The court denies the motion without prejudice for the failure of Debtor to file and serve a declaration of Debtor in support of the motion when the motion was filed and served. The party moving to confirm a chapter 13 plan bears the burden of proof to show facts supporting the proposed plan. Max Recovery v. Than (In re Than), 215 B.R. 430, 434 (B.A.P. 9th Cir. 1997). In addition, LBR 9014-1(d)(3)(D) requires in relevant part that "[e]very motion or other request for relief shall be accompanied by evidence establishing its factual allegations and demonstrating that the movant is entitled to the relief requested." Here, no evidence was filed or served with the motion to modify

Debtor's plan, so Debtor did not meet her required burden of proof or comply with this court's Local Rules of Practice.

The court also denies the motion for the failure of counsel for Debtor to include a Docket Control Number on the motion and all related pleadings as required by LBR 9014-1(c). Counsel for Debtor was previously informed by the court of the need for motions and supporting papers to include a Docket Control Number and was warned that the failure to comply with the court's Local Rules of Practice could result in the court denying future matters without prejudice. Doc. #60. Because this is the second time in this case that counsel for Debtor has been informed of the need for a Docket Control Number on motions filed with this court, this motion is denied without prejudice.

Accordingly, Debtor's motion to confirm her second amended chapter 13 plan is DENIED WITHOUT PREJUDICE.

3. [24-10539](#)-A-13     **IN RE: ANTONIO PERALTA**  
[JCW-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY MIDFIRST BANK  
4-8-2024     [\[16\]](#)

MIDFIRST BANK/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
JENNIFER WONG/ATTY. FOR MV.

TENTATIVE RULING:             This matter will proceed as scheduled.

DISPOSITION:                     Sustained.

ORDER:                             The minutes of the hearing will be the court's findings and conclusions. The court will issue an order after the hearing.

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and sustain the objection. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Antonio Peralta ("Debtor") filed his chapter 13 plan ("Plan") on March 4, 2024. Plan, Doc. #3. MidFirst Bank, its assignees and/or successors ("Creditor"), objects to confirmation of the Plan because the Plan (1) does not provide for the curing of the \$45,930.74 pre-petition default on Creditor's claim, and (2) is not feasible. Doc. #16.

Federal Rule of Bankruptcy Procedure 3001(f) provides that "[a] proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim." 11 U.S.C. § 502(a) states that a claim or interest, evidenced by a proof of claim filed under § 501, is deemed allowed unless a party in interest objects. Creditor filed its proof of claim on March 26, 2024. Claim 2-1.

Section 3.02 of the Plan provides that the proof of claim determines the amount and classification of a claim. Plan, Doc. #3. The Plan fails to account for the arrearage asserted in Creditor's claim. Claim 2-1; Plan, Doc. #3. The Plan

states that arrears owed to Creditor are in the amount of \$36,046.67, but the proof of claim states the pre-petition arrears total is \$45,930.74. Claim 2-1; Doc. #16 In order to cure the pre-petition arrearages of \$46,930.74 within 60 months, the monthly dividend needs to increase to \$765.50 per month. Doc. #16. Further, Creditor asserts that Debtor does not have sufficient funds available to increase the monthly plan payment to cure the arrears within 60 months. Schedule I & J, Doc. #1; Doc. #16. The court finds that Debtor's lack of income and failure to demonstrate an ability to pay the arrearages owed to Creditor or fund the Plan renders the plan unfeasible.

Accordingly, pending any opposition at hearing, the objection will be SUSTAINED.

4. [24-10539](#)-A-13     **IN RE: ANTONIO PERALTA**  
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG  
4-8-2024     [\[13\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.

NO RULING.

5. [24-10257](#)-A-13     **IN RE: MAREBEL RANGEL**  
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG  
3-25-2024     [\[17\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Continued to June 6, 2024 at 9:00 a.m.

ORDER:     The court will issue an order.

Marebel Rangel ("Debtor") filed a voluntary petition under chapter 13 on February 1, 2024 along with a chapter 13 plan ("Plan") on February 14, 2024. Doc. ##1, 10. The chapter 13 trustee ("Trustee") objects to confirmation of the Plan because (1) the meeting of creditors has not yet concluded, (2) Debtor has not filed all applicable tax returns, and (3) Trustee is unable to determine whether the Plan is feasible. Doc. #17.

This objection will be continued to June 6, 2024 at 9:00 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or Trustee's objection to confirmation is withdrawn, Debtor shall file and serve a written response no later than May 23, 2024. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support Debtor's position. Trustee shall file and serve a reply, if any, by May 30, 2024.

If Debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than May 30, 2024. If Debtor does not timely file a modified plan or a written response, this objection to confirmation will be

sustained on the grounds stated in Trustee's objection without a further hearing.

6. [18-12667](#)-A-13     **IN RE: SAMANTHA JOHNSON**  
[LGT-1](#)

CONTINUED MOTION TO DISMISS CASE  
1-22-2024    [\[85\]](#)

LILIAN TSANG/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
LILIAN TSANG/ATTY. FOR MV.  
RESPONSIVE PLEADING

FINAL RULING:                    There will be no hearing on this matter.

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED.

The chapter 13 trustee withdrew the motion to dismiss on April 8, 2024.  
Doc. #103.

7. [24-10472](#)-A-13     **IN RE: GABRIELLE HUDSON**  
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG  
4-8-2024    [\[12\]](#)

RABIN POURNAZARIAN/ATTY. FOR DBT.  
WITHDRAWN 4/26/2024

FINAL RULING:                    There will be no hearing on this matter.

DISPOSITION:                    Dropped from calendar.

NO ORDER REQUIRED.

The chapter 13 trustee withdrew her objection on April 26, 2024. Doc. #15.

8. [23-10684](#)-A-13     **IN RE: CHERYL MELIZA LOPEZ**  
[LGT-1](#)

CONTINUED MOTION TO DISMISS CASE  
2-5-2024    [\[50\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

NO RULING.

9. [23-10684](#)-A-13     **IN RE: CHERYL MELIZA LOPEZ**  
[RSW-2](#)

MOTION TO MODIFY PLAN  
4-2-2024    [\[63\]](#)

CHERYL MELIZA LOPEZ/MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
RESPONSIVE PLEADING

NO RULING.

10. [24-10086](#)-A-13     **IN RE: NOEMI HERNANDEZ ARREDONDO**  
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG  
4-8-2024    [\[29\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.

TENTATIVE RULING:        This matter will proceed as scheduled.

DISPOSITION:               Sustained.

ORDER:                        The minutes of the hearing will be the court's findings  
and conclusions. The court will issue an order after the  
hearing.

This objection was filed and served pursuant to Local Rule of Practice ("LBR") 3015-1(c)(4) and will proceed as scheduled. Unless opposition is presented at the hearing, the court intends to enter the respondents' defaults and sustain the objection. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2). The court will issue an order if a further hearing is necessary.

Noemi Hernandez Arredondo ("Debtor") filed a voluntary petition under chapter 13 on January 16, 2024 along with a chapter 13 plan ("Plan") on February 3, 2024. Doc. #1, 17. The chapter 13 trustee ("Trustee") objects to confirmation of the Plan because (1) the meeting of creditors has not yet concluded, (2) Debtor's plan improperly classifies a secured creditor, and (3) Debtor will not be able to make all payments under the Plan and comply with the Plan. Doc. #29.

Because one of the grounds for Trustee's objection to confirmation requires the filing of a new chapter 13 plan and the noticing of a motion to confirm that plan, the court is inclined to sustain the objection and deny confirmation rather than continue the hearing on Trustee's objection to confirmation to allow the meeting of creditors to be concluded.

11 U.S.C. § 1325(a)(1) requires the Plan to comply with the provisions of this chapter and with the other applicable provisions of this title. 11 U.S.C. § 1325(a)(1). Here, the Plan provides for Creative Realty Mortgage ("CRM"), a creditor with a claim secured by Debtor's residence, as a Class 1 creditor. Plan, Doc. #17. On March 1, 2024, CRM filed a proof of claim asserting this mortgage loan matures on July 1, 2028, or in month 54 of the Plan. Claim 2-1. Class 1 is for a claim that matures after the completion of the Plan. Because

CRM's claim matures during the life of the plan, CRM's claim should be provided for in Class 2. Thus, the current Plan cannot be confirmed.

Section 1325(a)(6) of the Bankruptcy Code requires that the debtor be able to make all payments under the plan and comply with the plan. 11 U.S.C.

§ 1325(a)(6). The party moving to confirm the chapter 13 plan bears the burden of proof to show facts supporting the proposed plan. Max Recovery v. Than (In re Than), 215 B.R. 430, 434 (B.A.P. 9th Cir. 1997).

Debtor's plan lists plan payments in the amount of \$3,750.00 for 60 months. Doc. #17. Debtor had not made any plan payments as of the date Trustee's objection to confirmation was filed and was delinquent in her plan payments by \$7,500, with another payment coming due April 25, 2024. Doc. #29. Based on Debtor's failure to make any plan payments, the court finds that Debtor has not met her burden of showing her ability to make all monthly payments due under the Plan.

Accordingly, pending any opposition at the hearing, the objection will be SUSTAINED.



1. [23-11771](#)-A-7     **IN RE: PARADIGM STEEL FABRICATORS INC.**  
[RSW-1](#)

MOTION FOR ADMINISTRATIVE EXPENSES  
4-10-2024    [\[52\]](#)

JORGE & MARIA A. MOLINA REV. TRUST/MV  
D. GARDNER/ATTY. FOR DBT.  
ROBERT WILLIAMS/ATTY. FOR MV.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:             The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date pursuant to Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a moving party make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Jorge & Maria A. Molina Revocable Trust ("Creditor"), creditor of the chapter 7 bankruptcy estate of Paradigm Steel Fabricators Inc. ("Debtor"), moves the court for an order authorizing the payment of \$20,470.00 for post-petition rent owed for the real property located at 3510 Standard St., Bakersfield, CA 93308 ("Property") as an administrative expense. Doc. #52.

Section 503(b)(1)(A) allows administrative expense claims for "the actual, necessary costs and expenses of preserving the estate[.]" 11 U.S.C. § 503(b)(1)(A). 11 U.S.C.S. § 365(a) permits the trustee, subject to court approval, to assume or reject unexpired leases. Section 365(d)(3) allows rejection of unexpired nonresidential real property leases and requires the trustee to perform timely all obligations required under the lease, including the obligation to pay rent at the contract rate until the lease is rejected, and gives the lessor an administrative claim for such amounts. 11 U.S.C. § 365(d)(3).

Here, Creditor owned the Property prior to Debtor filing for bankruptcy and rented the Property to Debtor for \$5,040.00 per month. Decl. of Jorge Molina, Doc. #55. Creditor states that the chapter 7 trustee, Jeffrey Vetter ("Trustee"), retained possession of the Property after Debtor filed bankruptcy on August 14, 2024 until the keys were returned to Creditor on December 15, 2024. Id. Creditor seeks post-petition rent owed for the four months that Trustee retained the Property in the amount of \$20,470.00. Ex. A & B, Doc. #56.

Creditor has shown that the post-petition rent payments were incurred by the bankruptcy estate, and payment of the post-petition rent is an actual, necessary cost and expense of preserving the estate. Doc. #52.

Accordingly, this motion is GRANTED. Trustee is authorized to pay Creditor \$20,470.00 as an administrative expense for post-petition rent incurred by the estate from available funds only if the estate is administratively solvent and such payment is consistent with the priorities of the Bankruptcy Code.

2. [17-14682](#)-A-7     **IN RE: SCOTT DOYLE**  
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY  
3-27-2024     [\[166\]](#)

AMERICREDIT FINANCIAL SERVICES, INC./MV  
ROBERT WILLIAMS/ATTY. FOR DBT.  
SHERYL ITH/ATTY. FOR MV.

FINAL RULING:     There will be no hearing on this matter.

DISPOSITION:     Granted.

ORDER:     The Moving Party shall submit a proposed order in conformance with the ruling below.

This motion was set for hearing on at least 28 days' notice prior to the hearing date as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of creditors, the debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. See Boone v. Burk (In re Eliapo), 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amount of damages). Televideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires a movant make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The movant, Americredit Financial Services ("Movant"), seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) with respect to a 2015 GMC Sierra, VIN: 1GT22YEG3FZ122539 ("Vehicle"). Doc. #166.

11 U.S.C. § 362(d)(1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case by case basis." In re Mac Donald, 755 F.2d 715, 717 (9th Cir. 1985).

After review of the included evidence, the court finds that "cause" exists to lift the stay because Movant's claim was being paid through a confirmed chapter 13 Plan under Class 2(b). On February 28, 2023, the secured portion of Movant's claim was paid in full. However, on February 13, 2024, the debtor's case converted to chapter 7, restoring the original terms of the contract.

Doc. ##148, 166. The loan matured on June 17, 2021, and the account is in default for the entire balance of \$13,406.18. Decl. of Aaron Rangel, Doc. #172.

Accordingly, the motion will be granted pursuant to 11 U.S.C. § 362(d)(1) to permit Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded.

The 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3) will be ordered waived because the loan has already matured and the Vehicle is a depreciating asset.

3. [24-10694](#)-A-7     **IN RE: ARTURO BARBOZA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES  
4-3-2024     [\[13\]](#)

VINCENT QUIGG/ATTY. FOR DBT.

TENTATIVE RULING:            This matter will proceed as scheduled.

DISPOSITION:                    The minutes of the hearing will be the court's findings and conclusions.

ORDER:                            The court will issue an order.

This matter will proceed as scheduled. If the fees due at the time of the hearing have not been paid prior to the hearing, the case will be dismissed on the grounds stated in the order to show cause.

1. [24-10349](#)-A-7     **IN RE: NATHAN/ROSALINA CURTIS**

PRO SE REAFFIRMATION AGREEMENT WITH UNITED WHOLESALE MORTGAGE, LLC  
3-22-2024    [[16](#)]

STEVEN ALPERT/ATTY. FOR DBT.

FINAL RULING:        There will be no hearing on this matter.

DISPOSITION:        Dropped.

ORDER:                The court will issue an order.

The debtors' counsel will inform the debtors that no appearance is necessary.

The court is not approving or denying approval of the reaffirmation agreement. The debtors were represented by counsel when they entered into the reaffirmation agreement. Pursuant to 11 U.S.C. §524(c)(3), if the debtor is represented by counsel, the agreement must be accompanied by an affidavit of the debtor's attorney attesting to the referenced items before the agreement will have legal effect. In re Minardi, 399 B.R. 841, 846 (Bankr. N.D. Okla. 2009). The reaffirmation agreement, in the absence of a declaration by the debtors' counsel, does not meet the requirements of 11 U.S.C. §524(c) and is not enforceable. The debtors shall have 14 days to refile the reaffirmation agreement properly signed and endorsed by their attorney.