

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

May 12, 2020 at 2:00 p.m.

ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)

1.	<u>19-25501-C-13</u> <u>MJH-1</u>	AGUSTIN HINOJOSA Mark Hannon	MOTION TO CONFIRM PLAN 4-7-20 <u>[51]</u>
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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 Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on April 7, 2020. By the court's calculation, 35 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.
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The debtor, Agustin Manriquez Hinojosa ("Debtor"), seeks confirmation of the Amended Plan. The Amended Plan provides for payments of \$2,100 in months 1 through March 2020; payments of \$0 from April 2020 through July 2020; and payments of \$1,435 for the remainder of the plan term.

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Amended Plan, Dckt. 54. 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 24, 2020. Dckt. 64. Trustee opposes confirmation on the following grounds:

1. The plan does not provide all disposable income. The prior plan has a higher payment, and the court sustained Trustee's objection to confirmation on that basis. Now, Debtor argues income will be uncertain for 4 months due to the pandemic, but has not provided sufficient evidence to that point.

Trustee agrees assessing Debtor's income may not be possible at this point, and argues that if the plan is confirmed it should include provisions requiring tax returns be provided to the Trustee and supplemental schedules be filed annually.

2. Debtor admitted at the meeting of creditors that various business equipment was not scheduled, such as a 32 foot cargo container, 3 compressors, and possibly other equipment. The Trustee is not certain that the \$4,000.00 value of the business is realistic based on the prior cash flow of the business.
3. The Proof of Claims filed by the FTB and IRS show Debtor did not file a Federal 2018 tax return and State 2017 and 2018 tax return.
4. The Motion misrepresents that an amended plan was filed because initially a skeletal petition was filed, where the initial petition filed was complete, and where this amended plan was brought because the prior plan was denied confirmation.
5. Debtor's Declaration filed in support makes misrepresentations (including that the reason for filing an amended plan was to serve all creditors; that Debtor read the Chapter 13 plan; that Debtor only owes tax debt; and that all tax returns have been filed). Trustee notes that at the Meeting of Creditors, an English language translator was necessary, indicating Debtor may not understand the misrepresentations.

DEBTOR'S RESPONSE

Debtor filed a Response on May 5, 2020. Dckt. 67. In the Response Debtor's Counsel argues Debtor's declaration and common knowledge about COVID-19 are sufficient to confirm a plan. Debtor's counsel argues that since the debts are primarily tax debts, that a four-year delay in payment is reasonable.

The Response also indicates Debtor is agreeable to language in the order confirming plan

requiring tax returns be provided to the Trustee and supplemental schedules be filed annually.

DISCUSSION

The Trustee raised several issues with confirmation of the Chapter 13 plan, to which the Debtor only responded to one.

The evidence shows Debtor has not filed all necessary tax returns. Filing of the return is required. 11 U.S.C. §§ 1308, 1325(a)(9). Failure to file a tax return alone is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

The Trustee also raised questions as to the Debtor's valuation of the business, which counsel chose not to respond to. Trustee's inquiry primarily relates to unscheduled assets, including a 32 foot cargo container, 3 compressors, and possibly other equipment which Trustee thinks affects the value of the business. But, this is actually a problem of unscheduled assets and not merely undervaluation.

Debtor's business is a sole proprietorship entitled California the Best Manufacturer Of Sofas. Debtor values the business at \$4,000 and inventory in progress at \$6,500. Schedule A/B, Dckt. 1.

A sole proprietorship is not a legal entity itself. Rather, the term refers to a natural person who directly owns the business....” *Providence Washington Ins. Co. v. Valley Forge Ins. Co.*, 42 Cal. App. 4th 1194, 1199, 50 Cal. Rptr. 2d 192, 194 (1996)(citing FRIEDMAN, CAL.PRACTICE GUIDE: CORPORATIONS 1 (1995) ¶ 2:3, p. 2–1).

It may be that Debtor is shoe-horning in equipment and other assets under the blanket value of the business, but that characterization is inaccurate because the business is not an entity that owns any assets. All the equipment and goods and other property are just assets of the Debtor. And, it is not for the court to presume that Debtor's business equipment was therein included and exempted on Schedule C.

In addition to the unscheduled equipment discussed by the Trustee, the court has concerns there may be a very large amount of unscheduled goods used in connection with the business. In the Attachment to Schedule I breaking down the business' income and expenses, it is stated that the business expends \$70,564 a month for “cost of goods.” It is not stated whether the “goods” is furniture or materials for making furniture. Even so, it is unclear how a business expending \$70,564 on goods monthly (\$846,768 annually) only has \$6,500 in inventory on-hand.

Given that the Debtor needed an English language translator, the court has serious concerns over the extent to which inaccurate information may have been provided due to a language barrier.

The evidence provided in the record is enough for the court to doubt the accuracy of Debtor's schedules. At best, Debtor has failed to disclose his interest in the various business equipment cited by the Trustee. Debtor's plan almost certainly fails the Chapter 7 Liquidation Analysis under 11 U.S.C. § 1325(a)(4).

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

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

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

The Motion to Confirm the Amended Chapter 13 Plan filed by the debtor, Agustin Manriquez Hinojosa (“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.

No 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 the United States Trustee on April 14, 2020. By the court's calculation, 28 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 -----

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The Objection to Confirmation of Plan is XXXXXXXXXX

Capital One Auto Finance, a division of Capital One, N.A. ("Creditor") holding a secured claim opposes confirmation on the basis that its claim is not provided for in the plan.

DISCUSSION

Creditor argues the plan cannot be confirmed because its secured claim is not provided for, and because (without the claim being provided for) the interest rate is insufficient.

Debtor does not list the collateral, a 2012 Ford Edge SEL Sport Utility 4D, in Debtor's schedules as an asset. It is unclear whether Debtor is still in possession of that collateral. Debtor listed it on Schedule A/B of her prior case, 18-25070, which was filed on August 13, 2018 and dismissed on September 6, 2019.

In the current case Debtor lists a Ford Edge, identifying it as a 2017 model with 58,000 miles on it. Dckt 1 at 12. In the prior case, the 2012 Edge was listed as having 55,000 miles on it.

The fact that Debtor's plan does not provide for respondent Creditor's claim seems to come down to whether the plan is feasible or not.

At the hearing, **XXXXXXXXXXXXXXXXXX**.

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

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

The Objection to the Chapter 13 Plan filed by Capital One Auto Finance, a division of Capital One, N.A. ("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
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No 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 Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on March 3, 2020. By the court’s calculation, 56 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 XXXXXXXXXXXX

The debtor, Louis Frank Brown (“Debtor”), through his son and appointed representative Louis G. Brown, seeks confirmation of the Modified Plan to cure a plan payment delinquency of roughly \$9,000.00. The Modified Plan provides for payments of \$1,641.10 per month for 36 months \$3,001.00 per month for 24 months. Modified Plan, Dckt. 164. 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 March 30, 2020. Dckt. 168. Trustee opposes confirmation on the following grounds:

1. Debtor is \$3,001.10 delinquent in plan payments.
2. Debtor has not filed supplemental schedules demonstrating Debtor’s ability to make the plan payments.

DEBTOR'S REPLY

Debtor filed a Reply on April 21, 2020, reporting that current schedules have been filed, and that debtor will be current by April 30, 2020 since Debtor's representative is paid the last day of each month.

APRIL 28, 2020 HEARING

At the April 28, 2020 hearing, the court continued the hearing to allow Debtor's representative to

DISCUSSION

At the hearing, the parties reported **xxxxxxxxxxxxxx**.

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

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

The Motion to Confirm the Modified Chapter 13 Plan filed by the debtor, Louis Frank Brown ("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 Motion to Confirm the Modified Plan is
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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 Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on February 18, 2020. By the court's calculation, 42 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 XXXXXXXXXXXXXX.
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The debtor, Roldan Biansat Sebedia ("Debtor") seeks confirmation of the Modified Plan. The Modified Plan provides for \$26,325.00 paid through January 2002, and for payments of \$1,775 for 8 months and \$2,435 for the remainder of the plan term. Modified Plan, Dckt. 66. 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 March 13, 2020. Dckt. 72. Trustee opposes confirmation on the following grounds:

1. The Debtor reports in the Supplemental Schedule J having a \$1,000 monthly expense for car rental. Debtor indicates this expense was present at the beginning of the case, despite the Supplemental Schedule J (filed almost a year after the petition) containing the first mention of the expense.

2. Debtor has not provided current pay advices, bank statements, or other support for the Supplemental Schedule I's stated income.

Trustee filed a Status Report on March 24, 2020, requesting the motion be denied or the hearing continued to May 10, 2020. Dckt. 76.

MARCH HEARING

At the March 31, 2020, hearing the court continued the hearing in consideration of Trustee's request. Dckt. 77.

DISCUSSION

No status update or other pleadings has been filed since the prior hearing indicating whether Debtor has addressed grounds for opposition.

At the hearing, the parties reported **xxxxxxxxxxxxxx**.

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

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

The Motion to Confirm the Modified Chapter 13 Plan filed by the debtor, Roldan Biansat Sebedia ("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 hearing on the Motion to Confirm the Modified Plan is **xxxxxxxxxxxxxx**.

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 Chapter 13 Trustee, creditors, and Office of the United States Trustee on February 14, 2020. By the court's calculation, 74 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).

<p>The Motion to Confirm the Modified Plan is denied.</p>
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The debtor, Stephen Wilfred Meyer and Paula Rana Meyer ("Debtor") seek confirmation of the Modified Plan to adjust the payment to reflect a trial loan modification. Declaration, Dckt. 33. The Modified Plan provides for \$9,899 paid through month 6, for payments of \$1,137.00 from months 7-60, and for reclassification of Loancare LLC's claim from Class 1 to Class 4. Modified Plan, Dckt. 36. 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 6, 2020. Dckt. 47. Trustee opposes confirmation on the following grounds:

1. Debtor is \$1,137.00 delinquent in plan payments.
2. Debtor's modified Plan proposes to reclassify Loancare, LLC regarding Debtor's mortgage and pre-petition arrears payments from Class 1 to Class 4 based on a trial loan modification that has not been approved by

the Court.

APRIL 2020 HEARING

At the April 28, 2020, hearing it was reported counsel for Debtor suffered a health emergency and could not attend. Dckt. 51. The court continued the hearing to allow a response to be filed or for Debtor's counsel to attend the continued hearing.

DISCUSSION

Debtor is \$1,137.00 delinquent in plan payments. Delinquency indicates that the Plan is not feasible and is reason to deny confirmation. *See* 11 U.S.C. § 1325(a)(6).

Additionally, the current proposed plan has not been demonstrated to be feasible because it relies on a trial loan modification which the court has not approved, and which the Debtor has not sought approval for.

The Modified Plan does not comply with 11 U.S.C. §§ 1322, 1325(a), and 1329 and is not confirmed.

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

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

The Motion to Confirm the Modified Chapter 13 Plan filed by the debtor, Stephen Wilfred Meyer and Paula Rana Meyer ("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 Motion to Confirm the Modified Plan is denied, and the proposed Chapter 13 Plan is not confirmed.

No 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 Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on February 19, 2020. By the court’s calculation, 41 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 XXXXXXXXXXXXXX.
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The debtor, Aren Parnell Jackson (“Debtor”) seeks confirmation of the Modified Plan to address a plan payment delinquency, as well as account for changes in income and expenses. The Modified Plan provides for \$35,217.00 paid in through February, 2020, and payments of \$2,485 thereafter. Modified Plan, Dckt. 103. 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 March 12, 2020. Dckt. 112. Trustee opposes confirmation on the following grounds:

1. Debtor included an Ensminger Provision that deviates from what is typically approved.
2. Debtor states he commenced a HAMP application but has not filed evidence of that application.

3. Debtor's confirmed plan relied on \$2,400 in monthly contributions from Debtor's mother and daughter, and Debtor defaulted under the plan. Amended Schedule I reduces the monthly contribution to \$100, but Trustee does not believe the contributions are reliable.
4. Debtor's Supplemental Schedule I now includes a voluntary retirement contribution of \$70.00.
5. Supplemental Schedule J does not include expenses for taxes and insurance.

TRUSTEE'S STATUS REPORT

Trustee filed a Status Report on March 24, 2020. Dckt. 116. Trustee notes the grounds for opposition remain, but that he and Debtor's counsel desires a continuance to May 10, 2020, based on remote access preparations.

DISCUSSION

No status update or other pleadings has been filed since the prior hearing indicating whether Debtor has addressed grounds for opposition.

At the hearing, the parties reported **XXXXXXXXXXXXXXXXXX**.

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

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

The Motion to Confirm the Modified Chapter 13 Plan filed by the debtor, Aren Parnell Jackson ("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 Modified Plan is **XXXXXXXXXXXXXXXXXX**.

No 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 Debtor's Attorney on March 3, 2020. By the court's calculation, 28 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 -----
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The Objection to Confirmation of Plan is XXXX
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The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Plan on the basis that:

- A. The plan proposes paying student loans directly as an expense, which unfairly discriminates against other unsecured creditors.
- B. Debtor has claimed exemptions pursuant to California Civil Code of Procedure section 703.140 and appears married, but has not filed a spousal waiver.
- C. Trustee is not clear what Debtor's marital status is since he indicates on the Statement of Financial Affairs he is not married, and no income from the spouse is listed.

- D. Debtor did not provide Debtor's social security number at the Meeting of Creditors.

DEBTOR'S REPLY

Debtor filed a Reply on March 17, 2020. Dckt. 30. Debtor argues:

1. The plan does not unfairly discriminate because the student loan debt belongs to the non-filing spouse, and the non-filing spouse is not receiving a discharge. FN.1.

FN.1. The court notes that the argument appears to be that since Debtor's heretofore unidentified spouse has a financial obligation with the Debtor, then it is proper to divert monies outside of the bankruptcy plan limits to financially benefit that spouse. The "mere" fact that an obligation is nondischargeable is not a basis for preferring that creditor with excess payments (as well as the debtor who cannot discharge debt) at the expense of other creditors in that class of claims.

2. A spousal waiver was filed with the court on March 12, 2020.
3. An amended Statement of Financial Affairs was filed to include the non-filing spouse's information.
4. Debtor will bring his social security card to the April 30, 2020, continued Meeting of Creditors.

TRUSTEE'S STATUS REPORT

Trustee filed a Status Report on March 24, 2020. Dckt. Trustee reports that the unfair discrimination and failure to provide a social security number have not been addressed.

MARCH 31 HEARING

At the March 31, 2020, hearing the court granted a continuance to allow Debtor's counsel to further brief whether the plan's treatment of student loan debt constitutes unfair discrimination. Dckt. 35.

DISCUSSION

Despite the continuance afforded to allow Debtor additional briefing, nothing has been filed.

At the hearing, the parties reported xxxxxxxxxxxxxx.

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

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

hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, 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
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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 Debtor's Attorney on March 17, 2020. By the court's calculation, 42 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 -----
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The Objection to Confirmation of Plan is XXXXXXXXXX

The Chapter 13 Trustee, David Cusick ("Trustee"), filed an Objection to Confirmation on March 17, 2020 opposing confirmation of the debtor Deshaunna Tranise Payne's ("Debtor") proposed Chapter 13 plan. Dckt. 18.

Thereafter, Trustee filed a Status Report indicating Trustee's sole remaining ground for opposition is that Debtor has yet to commence plan payments and is \$2,015.43 delinquent. Dckt. 29.

Debtor's counsel filed a Reply on April 21, 2020, indicating Debtor has an ability to pay and will be current by the hearing date.

APRIL 28, HEARING

At the April 28, 2020 hearing the parties reported Debtor was still delinquent in plan payments. Dckt. 36. The court continued the hearing to allow Debtor to become current.

DISCUSSION

No status update or other pleadings has been filed since the prior hearing indicating whether Debtor has become current in plan payments.

At the hearing, the parties reported **XXXXXXXXXXXXXX**.

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

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

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, 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
XXXXXXXXXX

No 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 Debtor's Attorney on January 29, 2020. By the court's calculation, 13 days' notice was provided. The court issued an order shortening the time required for notice to 13 days. Dckt. 36.

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 XXXXXXXXXXXX

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

- A. Debtor's plan proposes valuing the secured claim of TD Auto Finance, but the court has not issued an order valuing that claim yet.
- B. The claim of Chase Bank is listed as a Class 1 and Class 4.
- C. Debtor has not provided a copy of Debtor's recent tax return.
- D. The Trustee has requested and Debtor has yet to provide a copy of the revocable living trust listed on Schedule B.

FEBRUARY 11, 2020 HEARING

At the February 11, 2020, the Trustee reported some documentation had been provided, and some issues resolved. The hearing was continued to allow the Objection to be heard alongside Debtor's Motion seeking to value secured claim of TD Auto Finance. Dckt. 40.

FEBRUARY 25, 2020 HEARING

At the continued hearing, the Trustee reported he was still waiting on a few documents to be provided by Debtor, and the parties requested further continuance. Dckt. 44.

MARCH 10 HEARING & STATUS REPORT

Once again the parties reported that Debtor had not provided documents regarding Debtor's trust interest. Dckt. 47. The hearing was continued again to allow a final opportunity for the Debtor to provide the documents.

On March 24, 2020, the Debtor filed her Declaration explaining she thinks the trust is revocable because her counsel in the past asked her to revoke it. Dckt. 48. However, Debtor reports she is still waiting on documents.

The Trustee's Status Report filed March 24, 2020, confirms no documents have been received to date.

MARCH 31 HEARING

At the March 28, 2020, hearing the court granted one final continuance to allow Debtor to provide documents regarding Debtor's trust interest.

DISCUSSION

No status update or other pleadings has been filed since the prior hearing indicating whether Debtor has provided the necessary trust documents.

At the hearing, the parties reported **xxxxxxxxxxxxxxxxxx**.

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

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

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

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, 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 **xxxxxxxxxxxx**

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 Chapter 13 Trustee, creditors, and Office of the United States Trustee on April 7, 2020. By the court’s calculation, 21 days’ notice was provided. 21 days’ notice is required. FED. R. BANKR. P. 2002(a)(3) (requiring twenty-one days’ notice).

The Motion for Approval of Compromise 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 for Approval of Compromise is granted.

The debtor, Desiree Renee Moreno (“Debtor”) requests that the court approve a compromise regarding Debtor’s worker’s compensation claims in four cases (Nos. ADJ11793408; ADJ11791770; ADJ11791771; ADJ11792165).

Little detail about the litigation and settlement were provided in the Motion.

APRIL 28 HEARING & SUPPLEMENT TO MOTION

At the April 28, 2020, hearing the court noted the Motion contained insufficient information about the settlement, and that no copy of the settlement was filed. Dckt. 24. The hearing was continued to allow Debtor’s counsel to supplement the record.

On May 6, 2020, Debtor filed a Supplement To Motion. Dckt. 27. The Supplement includes

an analysis of the settlement factors outlined in *A & C Props* and *Woodson*, discussed infra.

Debtor also filed a copy of the Order Approving Settlement filed as Exhibit A, which makes clear the settlement is a release of claims in return for the sum of \$20,000.00 (less \$3,000 designated for attorney's fees). Dckt. 29.

DISCUSSION

Approval of a compromise is within the discretion of the court. *U.S. v. Alaska Nat'l Bank of the North (In re Walsh Constr.)*, 669 F.2d 1325, 1328 (9th Cir. 1982). When a motion to approve compromise is presented to the court, the court must make its independent determination that the settlement is appropriate. *Protective Comm. for Indep. S'holders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424–25 (1968). In evaluating the acceptability of a compromise, the court evaluates four factors:

1. The probability of success in the litigation;
2. Any difficulties expected in collection;
3. The complexity of the litigation involved and the expense, inconvenience, and delay necessarily attending it; and
4. The paramount interest of the creditors and a proper deference to their reasonable views.

In re A & C Props., 784 F.2d 1377, 1381 (9th Cir. 1986); *see also In re Woodson*, 839 F.2d 610, 620 (9th Cir. 1988).

Probability of Success

Movant argues the probability of success is uncertain because multiple witnesses testify that Debtor has no injury prior to requesting leave of absence.

Movant's argument is well-taken. Given the uncertainty of the outcome of litigation this factor supports settlement.

Difficulties in Collection

Movant argues collection would be impossible if litigation were unsuccessful.

Assuming that Debtor were successful, the court finds no evidence to suggest that collection would be difficult. This factor does not necessitate settlement.

Expense, Inconvenience, and Delay of Continued Litigation

Movant concludes litigation would involve significant time, cost, and inconvenience.

While Debtor does not go into great detail to this point, the court agrees there is time, cost,

and inconvenience generally attendant to litigation, and this case is no exception.

Paramount Interest of Creditors

Movant argues settlement is in the best interest of creditors due to the uncertainty of the litigation, and so that Debtor will be able to focus on completing a Chapter 13 plan.

The court agrees and finds this factor supports settlement.

Consideration of Additional Offers

At the hearing, the court announced the proposed settlement and requested that any other parties interested in making an offer to Movant to purchase or prosecute the property, claims, or interests of the estate present such offers in open court. At the hearing -----.

Upon weighing the factors outlined in *A & C Props* and *Woodson*, the court determines that the compromise is in the best interest of the creditors and the Estate because it allows Debtor to avoid the cost and uncertainty of litigation while allowing Debtor to focus on prosecuting this case. The Motion is granted.

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

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

The Motion to Approve Compromise filed by debtor, Desiree Renee Moreno (“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 for Approval of Compromise between Movant and Maximus Inc. (“Settlor”) is granted, and the respective rights and interests of the parties are settled on the terms set forth in the executed Compromise and Release (Dckt. 29).

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 Chapter 13 Trustee, Creditor, and Office of the United States Trustee on April 1, 2020.. By the court's calculation, 41 days' notice was provided. 28 days' notice is required.

The Motion to Value Collateral and Secured Claim 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 Value Collateral and Secured Claim of Schools financial Credit Union ("Creditor") is denied without prejudice.

The Motion filed by Billy Burns and Linda Burns ("Debtor") to value the secured claim of Schools financial Credit Union ("Creditor") is accompanied by Debtor's declaration. Declaration, Dckt. 11. Debtor is the owner of a 2017 Dodge Ram 1500 ("Vehicle"). Debtor seeks to value the Vehicle at a replacement value of \$23,196.0 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 hanging paragraph of 11 U.S.C. § 1325(a)(9) provides:

For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 910-day period preceding the date of the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other

thing of value, if the debt was incurred during the 1-year period preceding that filing.

In this matter the court has been given insufficient information to determine whether the debt was a purchase money security interest incurred within the 910-day period preceding the date of the filing of the petition or not.

The date the obligation was incurred is not included in the Motion or any of the other pleadings.

In Debtor's Declaration (Dckt. 11 at ¶ 4), Debtor testifies:

I am informed and believe that I am entitled to file a motion under Section 506(a) of the Bankruptcy Code to value the collateral because the loan was incurred in more than 910 days before the case was filed.

Debtor does not explain who "informed" about this information. Non-expert witness testimony must be based on the personal knowledge of the witness. FED. R. EVID. 602. As discussed in Weinstein's Federal Evidence § 602.02:

A witness may testify only about matters on which he or she has first-hand knowledge. Because most knowledge is inferential, personal knowledge includes opinions and inferences grounded in observations or other first-hand experiences. The witness's testimony must be based on events perceived by the witness through one of the five senses.

Recently, the Ninth Circuit Court of Appeal addressed this personal knowledge issue, stating:

Under Rule 602, "[a] witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter." FED. R. EVID. 602. Rule 602 requires any witness to have sufficient memory of the events such that she is not forced to 'fill[] the gaps in her memory with hearsay or speculation.' 27 CHARLES ALAN WRIGHT ET AL., FEDERAL PRACTICE & PROCEDURE Evidence § 6023 (2d ed. 2007). Witnesses are not 'permitted to speculate, guess, or voice suspicions.' *Id.* § 6026. However, '[p]ersonal knowledge includes opinions and inferences grounded in observations and experience.' *Great Am. Assurance Co. v. Liberty Surplus Ins. Co.*, 669 F. Supp. 2d 1084, 1089 (N.D. Cal. 2009) (citing *United States v. Joy*, 192 F.3d 761, 767 (7th Cir. 1999)). Lay witnesses may testify about inferences pursuant to Rule 701:

If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is: (a) rationally based on the witness's perception; (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702.

United States v. Whittemore, 776 F.3d 1074, 1082 (9th Cir. 2015).

As discussed in Moore’s Federal Practice, Civil § 8.04, the use of “information and belief” is a pleading device for the use in a complaint (or motion) to allow a plaintiff (movant) to fill in the gaps of alleging a claim pending discovery.

[4] Allegations Supporting Claims for Relief May Be Made on Information and Belief

Rule 8 does not expressly permit statements supporting claims for relief to be made on information and belief (see § 8.06[5]). However, Rule 11 permits a pleader, after reasonable inquiry, to set forth allegations that “will likely have evidentiary support after a reasonable opportunity for further investigation or discovery” (see Ch. 11, Signing Pleadings, Motions, and Other Papers; Representations to the Court; Sanctions). Courts have read the policy underlying Rule 8, together with Rule 11, to permit claimants to aver facts that they believe to be true, but that lack evidentiary support at the time of pleading. Generally, however, such averments are allowed only when the facts that would support the allegations are solely within the defendant’s knowledge or control.

Nothing in the *Twombly* plausibility standard (see [1], above) prevents a plaintiff from pleading on information and belief. A pleading is sufficient if the pleading as a whole, including any allegations on information and belief, states a plausible claim. On the other hand, if the pleading fails to permit a plausible inference of wrongdoing, or if the allegations are nothing more than legal conclusions, the pleading will not survive a motion to dismiss.

This is incorporated to Federal Rule of Bankruptcy Procedure 9011, which repeats the provisions of Federal Rule of Civil Procedure 11(b), stating:

(b) Representations to the court. By presenting to the court (whether by signing, filing, submitting, or later advocating) a petition, pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances[.],—

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) the allegations and other factual contentions have evidentiary support

or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

Though allowed as a pleading device, the certification required by 28 U.S.C. § 1746 does not allow testimony in declaration to be provided under penalty of perjury being true because the witness merely “is informed and believes (or desires because likely it would mean the witness party would prevail) it is true.”

§ 1746. Unsworn declarations under penalty of perjury

Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

(1) If executed without the United States: “I declare (or certify, verify, or state) **under penalty of perjury** under the laws of the United States of America **that the foregoing is true and correct**. Executed on (date).

(Signature).”

(2) If executed within the United States, its territories, possessions, or commonwealths: “**I declare** (or certify, verify, or state) **under penalty of perjury** that the **foregoing is true and correct**. Executed on (date).

(Signature).”

28 U.S.C. § 1746 (emphasis added).

For the reasons stated above, the Motion will be denied without prejudice.

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

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

The Motion to Value Collateral and Secured Claim filed by Billy Burns

and Linda Burns (“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 denied without prejudice.

FINAL RULINGS

12. [18-24446-C-13](#) [BLG-4](#) HAEJA KOH
Chad Johnson MOTION TO MODIFY PLAN
3-4-20 [\[77\]](#)

Final Ruling: No appearance at the May 12, 2020, 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 Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on March 4, 2020. By the court's calculation, 69 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.
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11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The debtor, Haeja Koh ("Debtor"), has filed evidence in support of confirmation. The Chapter 13 Trustee, David Cusick ("Trustee"), filed a Response indicating non-opposition on April 27, 2020. Dckt. 87. The Modified Plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329 and is confirmed.

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

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

The Motion to Confirm the Modified Chapter 13 Plan filed by the debtor, Haeja Koh (“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 4, 2020, 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.

Final Ruling: No appearance at the May 12, 2020, hearing is required.

Local Rule 3007-1 Objection to Claim—No Opposition Filed.

Sufficient Notice Provided. The Proof of Service states that the Objection to Claim and supporting pleadings were served on the Chapter 13 trustee and the respondent creditor on March 17, 2020. By the court's calculation, 56 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). 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 non-responding parties 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 Objection to Proof of Claim Number 4–1 of Deck Capital is sustained and Creditor's claim is determined to be an unsecured claim in the amount of \$5,000.00.

The debtor, Daniel Scott Schweitzer (“Debtor”) filed an Objection to creditor Deck Capital’s (“Creditor”) Proof of Claim, No. 4–1, on the basis that the claim is overstated because it does not account for amounts paid by Debtor. Debtor seeks a determination that Creditor’s claim is unsecured in the amount of \$5,000.00.

After Debtor filed this Objection, Creditor filed Proof of Claim 4–2, which amended the claim mount to be \$5,000.00—the amount asserted by Debtor.

Based on the evidence before the court, and the Creditor having amended its claim, Creditor’s claim, the Objection to the Proof of Claim is sustained and Creditor’s claim is determined to be an unsecured claim in the amount of \$5,000.00.

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

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

The Objection to Claim of Deck Capital (“Creditor”), filed in this case by the debtor, Daniel Scott Schweitzer (“Objector”) having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection to Proof of Claim Number 4–1 of Creditor is sustained and Creditor’s claim is determined to be an unsecured claim in the amount of \$5,000.00.

Attorney’s fees and costs, if any, shall be requested as provided by Federal Rule of Civil Procedure 54 and Federal Rules of Bankruptcy Procedure 7054 and 9014.

Final Ruling: No appearance at the May 12, 2020, 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 Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on April 3, 2020. By the court’s calculation, 39 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 Rule 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). 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 Amended Plan is granted.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The debtor, Jose Mari Padilla Pagtalunan and Jeannette Rojas Pagtalunan (“Debtor”) have provided evidence in support of confirmation. The Chapter 13 Trustee, David Cusick (“Trustee”), filed a Response indicating non-opposition on April 24, 2020. Dckt. 65. The Amended Plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

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

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

The Motion to Confirm the Amended Chapter 13 Plan filed by the debtor, Jose Mari Padilla Pagtalunan and Jeannette Rojas Pagtalunan (“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 April 3, 2020, 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 Chapter 13 Trustee will submit the proposed order to the court.

Final Ruling: No appearance at the May 12, 2020, 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 Chapter 13 Trustee, creditors, parties requesting special notice, and Office of the United States Trustee on April 6, 2020. By the court's calculation, 36 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.

<p>The Motion to Confirm the Modified Plan is granted.</p>

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The debtor, Adriana Elena Rocklyn ("Debtor"), has filed evidence in support of confirmation. The Chapter 13 Trustee, David Cusick ("Trustee"), filed a Non-Opposition April 27, 2020. Dckt. 29. The Modified Plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329 and is confirmed.

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

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

The Motion to Confirm the Modified Chapter 13 Plan filed by the debtor, Adriana Elena Rocklyn ("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 April 6, 2020, 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.