



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Department B – Courtroom #13
Fresno, California
Hearing Date: Wednesday, May 14, 2025**

Unless otherwise ordered, all matters before the Honorable René Lastreto II, shall be simultaneously: (1) **In Person** at, Courtroom #13 (Fresno hearings only), (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**. You may choose any of these options unless otherwise ordered or stated below.

All parties or their attorneys 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/CourtAppearances>. Each party/attorney 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 and their attorneys who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest and/or their attorneys 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 who wish to attend by ZoomGov may only listen in to the hearing using the Zoom telephone number. Video participation or observing are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may attend in person unless otherwise ordered.

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.

Post-Publication Changes: 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 any possible updates.

9:30 AM

1. [25-10802](#)-B-13 IN RE: RICHARD WILSON
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG
4-21-2025 [\[16\]](#)

SCOTT LYONS/ATTY. FOR DBT.

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

DISPOSITION: Continued to June 11, 2025, at 9:30 a.m.

ORDER: The court will issue an order.

Chapter 13 trustee Lilian G. Tsang ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Richard Wilson ("Debtor") on March 17, 2025, on the following basis:

1. The plan provides for the payment of attorney fees in excess of the fixed compensation allowed under LBR 2016-1(c). Also, the Disclosure of Compensation of Attorney form filed March 17, 2025, does not match the form provided on the court's website.

Doc. #16.

This objection will be CONTINUED to June 11, 2025, at 9:30 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or the objection to confirmation is withdrawn, the Debtor shall file and serve a written response to the Objection not later than **14 days before the hearing**. 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 the Debtors' position. Any reply shall be served no later than **7 days before the hearing**.

If the Debtor elects to withdraw the 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 **7 days before the hearing**. If the Debtor does not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

2. [25-10204](#)-B-13 **IN RE: ARIEL/DAISY SAURE**
[KMM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY CREDITOR
TOYOTA MOTOR CREDIT CORPORATION
3-20-2025 [\[19\]](#)

TOYOTA MOTOR CREDIT CORPORATION/MV
PETER BUNTING/ATTY. FOR DBT.
KIRSTEN MARTINEZ/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Overruled.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. Order preparation
determined at the hearing.

This matter was originally heard on April 9, 2025. Doc. #32.

Toyota Motor Credit Corporation ("Creditor") objects to confirmation of the Chapter 13 Plan filed by Ariel and Daisy Saure (collectively "Debtors") on February 10, 2025, on the following basis:

1. The plan does not provide for the arrearage on the debt (which is secured by a 2023 Toyota Corolla ("the Vehicle"), and the interest is not at the proper Till rate.
2. If the plan payments are increased to account for the arrearage and proper Till rate, the plan will not be feasible according to Debtors' Schedule I & J.

Doc. #19. On April 9, 2025, the court continued this matter to May 14, 2025, and directed Debtors to either respond to the Objection or file a new plan by the deadlines set by the court. Doc. #32.

On April 14, 2025, the Debtors filed a Response asserting that the vehicle which serves as collateral for this claim is a 2023 Toyota Corolla for which Debtors' adult daughter makes all payments and exercises exclusive control. Doc. #38. Debtors point to their Amended Schedule A/B, filed February 10, 2025, which they assert "shows the Debtor [sic] is a purchaser of the [Vehicle] in name only" and that "Debtors have no beneficial rights to [the Vehicle]." Doc. #38. In fact, the Vehicle is not listed at all in the Amended Schedule A/B filed on February 10, 2025, but the *Second* Amended Schedule A/B filed on March 27, 2025, does list both Debtors as having an interest in the Vehicle, though that entry also states that "Daughter makes all payments on Vehicle" and that "Debtor was on registration for financing purposes." *Id.*

Debtors also point to the proposed plan at ¶ 3.11(b) which states: "Secured claims not listed as Class 1, 2, 3, or 4 are not provided for

by this plan. While this may be cause to terminate the automatic stay, such relief must be separately requested by the claim holder.” Doc. #14 (§3.11(b)). The plan does not directly address the Vehicle at all. *Id.*

If this Objection is not withdrawn, this matter will proceed as scheduled. The court is inclined to OVERRULE the Objection as the plan does not provide for the Vehicle, which is purportedly being paid for by the daughter who has possession of it. If the daughter is not making payments as required, Creditor retains the power to ask that the stay be lifted as to the co-obligor daughter pursuant to 11 U.S.C. § 1301(c)(2).

3. [25-10204](#)-B-13 **IN RE: ARIEL/DAISY SAURE**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE
LILIAN G. TSANG
3-24-2025 [\[23\]](#)

PETER BUNTING/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Withdrawn.

No order is required.

On May 7, 2025, the Chapter 13 Trustee withdrew the Objection to Confirmation of Debtor’s Chapter 13 Plan dated February 10, 2025. Accordingly, this Objection is WITHDRAWN.

4. [25-10311](#)-B-13 **IN RE: MALERY HERNANDEZ**
[KMB-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK
TRUST NATIONAL ASSOCIATION
3-25-2025 [[30](#)]

U.S. BANK TRUST NATIONAL ASSOCIATION/MV
BENNY BARCO/ATTY. FOR DBT.
SHANNON DOYLE/ATTY. FOR MV.

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

On May 7, 2025, the Debtor in this case filed a *Modified Chapter 13 Plan*. Doc. #49. Accordingly, this *Objection* to the Chapter 13 Plan dated February 14, 2025, will be DENIED as moot.

5. [25-10311](#)-B-13 **IN RE: MALERY HERNANDEZ**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE
LILIAN G. TSANG
3-21-2025 [[27](#)]

BENNY BARCO/ATTY. FOR DBT.

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

On May 7, 2025, the Debtor in this case filed a *Modified Chapter 13 Plan*. Doc. #49. Accordingly, this *Objection* to the Chapter 13 Plan dated February 14, 2025, will be DENIED as moot.

6. [24-13417](#)-B-13 **IN RE: ROBERT ZAMARRIPA**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG
4-21-2025 [\[40\]](#)

SCOTT LYONS/ATTY. FOR DBT.
WITHDRAWN

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

DISPOSITION: Withdrawn.

ORDER: The court will issue an order.

On April 29, 2025, the Trustee filed a Notice of Withdrawal regarding this Objection to Confirmation. Doc. #49. Accordingly, this Objection is WITHDRAWN.

7. [25-10331](#)-B-13 **IN RE: PRESTON BURGESS**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
4-21-2025 [\[42\]](#)

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

DISPOSITION: Vacated as moot.

ORDER: The court will issue an order.

On this day, the court granted the Trustee's *Motion to Dismiss* this Chapter 13 case. See Item #10, below (DCN LGT-2). Accordingly, this Order to Show Cause shall be VACATED as moot.

8. [25-10331](#)-B-13 **IN RE: PRESTON BURGESS**
[JCW-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY U.S. BANK
TRUST COMPANY, NATIONAL ASSOCIATION
3-25-2025 [\[27\]](#)

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION/MV
JENNIFER WONG/ATTY. FOR MV.

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

On this day, the court granted the Trustee's *Motion to Dismiss* this Chapter 13 case. See Item #10, below (DCN LGT-2). Accordingly, this Objection to Confirmation shall be OVERRULED as moot.

9. [25-10331](#)-B-13 **IN RE: PRESTON BURGESS**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE
LILIAN G. TSANG
3-21-2025 [\[24\]](#)

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

On this day, the court granted the Trustee's *Motion to Dismiss* this Chapter 13 case. See Item #10, below (DCN LGT-2). Accordingly, this Objection to Confirmation shall be OVERRULED as moot.

10. [25-10331](#)-B-13 **IN RE: PRESTON BURGESS**
[LGT-2](#)

MOTION TO DISMISS CASE
4-4-2025 [\[30\]](#)

LILIAN TSANG/MV

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

DISPOSITION: Granted.

ORDER: The court will issue an order.

Chapter 13 trustee Lillian G. Tsang ("Trustee") asks the court to dismiss the Chapter 13 case of Preston Burgess ("Debtor") based on the following reasons:

1. Unreasonable delay by the Debtor which is prejudicial to creditors.
2. Debtor failed to appear and testify at the initial 341 Meeting of Creditors conducted on March 18, 2025, and the continued 341 Meeting conducted on April 29, 2025. The second continued 341 Meeting is set for June 10, 2025.
3. Debtor has failed to provide required documents to the Trustee, including but not limited to:
 - a. Copies of required pay advices;
 - b. A complete copy of Debtor's most recently filed Federal Tax Return;
 - c. A copy of Debtor's original valid picture ID;
 - d. A copy of Debtor's complete Social Security number; and
 - e. The Class 1 Checklist, including the most recent mortgage statement.
4. Debtor failed to file the Schedule 1 8a Statement of Monthly Net Income.
5. Debtor's Schedules were incomplete in that, on Debtor's Schedule A/B, he lists simply "Car" for Question 3, with no year, make or model provided and a listed value of \$0.00.
6. Debtor has failed to commence plan payments and is delinquent in the amount of \$4,602.69 as of April 4, 2025, with additional monthly payments of \$4,602.69 accruing on April 25, 2025, and thereafter.

Doc. #30.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of any party in interest, including the 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 amounts of damages). *Televideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause. "A debtor's unjustified failure to expeditiously accomplish any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." *Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth)*, 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(1) for unreasonable delay.

Trustee has reviewed the schedules and determined that Debtor's assets are over encumbered and are of no benefit to the estate. Doc. #30. Because there is no equity to be realized for the benefit of the estate, dismissal, rather than conversion, best serves the interests of creditors and the estate.

Debtor has not filed an opposition to this motion. Unless the trustee's motion is withdrawn before the hearing, the motion will be GRANTED without oral argument for cause shown, and the case DISMISSED.

11. 25-10341-B-13 **IN RE: LORENZO MONREAL**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
4-17-2025 [\[27\]](#)

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.

Lorenzo Eduardo Monreal, Jr. ("Debtor") filed an Amended Voluntary Petition on April 3, 2025. Doc. #17. A fee of \$34.00 is required at the time of filing that motion. A *Notice of Payment Due* was served on Debtor on April 7, 2025. Doc. #18.

On April 17, 2025, the Clerk of the court issued an *Order to Show Cause re Dismissal of Contested Matter or Imposition of Sanctions* directing Debtor to appear at the hearing and show cause why the motion should not be stricken, sanctions imposed on the party filer

and/or their counsel, or other relief ordered for failure to comply with the provisions of 28 U.S.C. § 1930(b). Doc. #27.

This matter will proceed as scheduled. If the filing fee of \$34.00 is not paid prior to the hearing, the motion may be stricken, and sanctions imposed on the filer and/or its counsel on the grounds stated in the OSC.

12. [25-10341](#)-B-13 **IN RE: LORENZO MONREAL**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE
LILIAN G. TSANG
3-21-2025 [\[14\]](#)

RESPONSIVE PLEADING

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

On May 7, 2025, Lorenzo Monreal ("Debtor") filed his *First Modified Chapter 13 Plan*. Doc. #32. Accordingly, the Trustee's *Objection to Confirmation* of the Chapter 13 Plan dated February 19, 2025, is OVERRULED AS MOOT.

13. [25-10341](#)-B-13 **IN RE: LORENZO MONREAL**
[LGT-2](#)

OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
4-11-2025 [\[23\]](#)

LILIAN TSANG/MV
RESPONSIVE PLEADING

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

DISPOSITION: Withdrawn.

No order is required.

On May 9, 2025, the Trustee withdrew this Objection to Debtor's Claim of Exemption, averring that Debtor has resolved the Trustee's objections. Doc. #45. Accordingly, this Objection is WITHDRAWN.

14. [22-10857](#)-B-13 **IN RE: TEEBE KINFE**
[LGT-1](#)

MOTION TO DISMISS CASE
4-7-2025 [[80](#)]

LILIAN TSANG/MV
STEPHEN LABIAK/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Withdrawn.

NO ORDER REQUIRED.

The chapter 13 trustee withdrew this motion on May 2, 2025. Doc. #87. Accordingly, this matter will be taken off calendar pursuant to the trustee's withdrawal.

15. [24-13661](#)-B-13 **IN RE: RUBEN/VITELIA DEJESUS**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
4-24-2025 [[58](#)]

BENNY BARCO/ATTY. FOR DBT.
\$78.00 INSTALLMENT PAID 4/28/25

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

DISPOSITION: The OSC will be vacated.

ORDER: The court will issue an order.

The record shows that the installment fees now due have been paid in full. Accordingly, the order to show cause will be VACATED.

16. [24-11266](#)-B-13 **IN RE: ADOLFO/AURELIA HERNANDEZ**
[SL-2](#)

MOTION TO MODIFY PLAN
3-20-2025 [\[36\]](#)

AURELIA HERNANDEZ/MV
SCOTT LYONS/ATTY. FOR DBT.
RESPONSIVE PLEADING

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

DISPOSITION: Continued to June 11, 2025, at 9:30 a.m.

ORDER: The court will issue an order.

Adolpho and Aurelia Hernandez ("Debtors") move for an order confirming the *First Modified Chapter 13 Plan* dated March 20, 2025. Docs. #36, #40. Debtor's current plan was confirmed on August 15, 2024. Doc. #27. Chapter 13 trustee Lilian G. Tsang ("Trustee") timely objected to confirmation of the plan for the following reason(s):

1. The plan is not feasible as proposed. The dividend to Class 2 Creditor OneMain Financial must be increased to \$63.00 per month beginning in month 11 to fund the plan within 60 months, and the overall monthly payment must be increased to \$4,662.06 in months 11-60.
2. The plan is not proposed in good faith because the confirmed plan provides for a 100% distribution to general unsecured creditors, but the proposed amended plan calls for a 0% distribution, even though Debtors' income has gone up. While Debtors' monthly net income (per their most recent Schedules I and J) is \$7,211.83, their proposed plan payments are only \$4,650.00. Furthermore, the estate has a liquidation value of \$934.11, so the minimum dividend to general unsecured creditors must be at least 3.81%.
3. Due to Debtors' \$2,314.00 delinquency, Trustee cannot determine whether the plan is feasible in light of the proposed monthly plan payment.

Doc. #44. On May 6, 2025, the Debtors filed a *Reply* responding to Trustee's Objection. Doc. #48. Debtors declare that they are willing and able to increase their plan payments to \$4,662.06 for months 11-60 as proposed by the Trustee and that they will bring plan payments current. *Id.* Also on May 6, 2025, the Debtors filed an Amended Schedule I & J which lists a net monthly income of \$4,683.46. Doc. #46. The Declaration states that the amended schedule was necessary because they inadvertently excluded certain expenses from their earlier Amended Schedule I & J filed on April 23, 2025. *Compare* Doc. #42 and Doc. #48.

It appears that Trustee's 1st and 3rd objections have been resolved. The 2nd objection has been partially resolved in that the latest

Amended Schedule I & J supports a plan payment of \$4,650.00. However, the Reply does not address the other part of the 2nd objection - that the liquidation test requires a minimum dividend of 3.81% to general unsecured creditors.

This motion to confirm plan will be CONTINUED to **June 11, 2025, at 9:30 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or all objections to confirmation are withdrawn, the Debtors shall file and serve a written response to the objections no later than fourteen (14) days before the continued hearing date. The response shall specifically address each issue raised in the objection(s) to confirmation, state whether each issue is disputed or undisputed, and include admissible evidence to support the Debtor's position. Any replies shall be filed and served no later than seven (7) days prior to the hearing date.

If the Debtors elect to withdraw the 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 seven (7) days before the continued hearing date. If the Debtors do not timely file a modified plan or a written response, the objection will be sustained on the grounds stated, and the motion will be denied without further hearing.

17. [25-10389](#)-B-13 **IN RE: DONALD/STEPHANIE SALKIN**
[JCW-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY CAPITAL ONE AUTO
FINANCE
4-22-2025 [\[25\]](#)

CAPITAL ONE AUTO FINANCE/MV
JOEL WINTER/ATTY. FOR DBT.
JENNIFER WONG/ATTY. FOR MV.

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

Capital One Auto Finance ("Creditor") objects to confirmation of the *Chapter 13 Plan* filed by Donald and Stephanie Salkin (collectively "Debtors") on February 12, 2025, on the following basis:

1. Debtors propose to cramdown the value of a 2018 Subaru Outback Wagon ("the Vehicle") even though it was purchased within 910 days of the filing of the petition instead of paying the full contractual value and the appropriate interest rate as required by 11 U.S.C. § 1325.

Doc. #25. This court has already sustained the Trustee's Objection to Confirmation. See *Item #18, below*. Accordingly, this Objection will be OVERRULED as moot.

18. [25-10389](#)-B-13 **IN RE: DONALD/STEPHANIE SALKIN**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G.
TSANG
3-20-2025 [\[12\]](#)

LILIAN TSANG/MV
JOEL WINTER/ATTY. FOR DBT.

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

DISPOSITION: Sustained.

ORDER: The court will issue an order.

Chapter 13 trustee Lilian G. Tsang ("Trustee") objects to confirmation of the Chapter 13 Plan filed by Donald and Stephanie Salkin ("Debtors") on February 12, 2025, on the following basis:

1. The Trustee has not yet concluded the Meeting of the Creditors as Debtors and Debtors' attorney failed to appear at Debtor's 341 Meeting of Creditors held on March 18, 2025. The continued meeting will be held on April 15, 2025. Debtors are required to appear and submit to an examination under oath. Also, Debtors have failed to provide valid photo Identification and a copy of their Social Security Cards.
2. Debtors have failed to provide Trustee with complete copies of Debtors' 2023 Federal and State income tax returns.
3. Debtors have failed to provide Trustee with copies of Debtors' payment advices as required by 11 U.S.C. § 521(a)(1)(B)(iv) and LBR 1007-1

Doc. #12. On April 9, 2025, the court continued this objection to May 14, 2025. Doc. #15. Debtors were directed to file and serve a written response to the objection not later than fourteen (14) days before the continued hearing date, or file a confirmable, modified plan in lieu of a response not later than seven (7) days before the continued hearing date, or the objection would be sustained on the grounds stated in the objection without further hearing. *Id.*

On April 18, 2025, the Trustee filed a Supplemental Objection stating that Debtors did not appear at the 341 meeting of creditors which had been continued to April 15, 2025, and that the 341 meeting had again been continued to May 27, 2025. Doc. #19. The Trustee avers that all the objections outlined above remain unresolved, that no plan payments have been made, and that a motion to dismiss is forthcoming. *Id.*

Debtors neither filed a written response nor a modified plan. Therefore, Trustee's objection will be SUSTAINED on the grounds stated in the objection.

19. [24-13097](#)-B-13 **IN RE: ROBERT HERMAN**
[JM-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-15-2025 [\[41\]](#)

ONEMAIN FINANCIAL GROUP, LLC/MV
MARK ZIMMERMAN/ATTY. FOR DBT.
JAMES MACLEOD/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.

OneMain Financial Group, LLC ("Movant") seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2013 Kia Soul (VIN#KNDJT2A61D755876B) ("Vehicle"). Doc. #41. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. 4001(a)(4). *Id.*

Robert I. Herman ("Debtor") did not file opposition and Movant recovered possession of the Vehicle before bankruptcy according to the supporting declaration (Doc. #43 at pg. 2). No other party in interest timely filed written opposition. This motion will be GRANTED.

As an informative matter, the notice did not comply with LBR 9014-1(d)(3)(B)(i), which requires the notice of hearing to include the names and addresses (no address listed for the Chapter 13 trustee) of persons who must be served with any opposition. Also, the U.S. Trustee's address is incorrect. For the Fresno Division of the Bankruptcy Court the U. S. Trustee's Fresno address is the correct address, not Sacramento. In addition, the stay relief motion does not include a statement that the Debtor and Trustee were advised of the alleged delinquency or whether other notices were sent as required by LBR 4001-1 (b) in this Chapter 13 case.

The court will overlook these deficiencies as Movant has possession of the Vehicle and the Plan makes no provision for the claim.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the 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 Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

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).

11 U.S.C. § 362(d)(2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay because Debtor has missed four (4) pre-petition payments and five (5) post-petition payments totaling \$6,534.36. Docs. #43, #46. Movant recovered possession of the Vehicle after conversion of the case to Chapter 13. Doc. #43. Since the Vehicle has been recovered, the only issue is disposition of the collateral.

The court also finds that the Debtor does not have any equity in the Vehicle and Movant has recovered possession of the Vehicle. The Vehicle is valued at \$7,225.00 and Debtor owes \$22,375.99. Doc. #46.

Accordingly, the motion will be granted pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to permit the 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 Fed. R. Bankr. P. 4001(a)(4) will be ordered waived because Debtor has failed to make four pre-petition payments and five post-petition payments to Movant and the Vehicle is a depreciating asset.

11:00 AM

1. [24-12714](#)-B-7 **IN RE: SEBASTIAN GUTIERREZ**
[24-1060](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
12-26-2024 [\[1\]](#)

DOE V. GUTIERREZ
BRADLEY BOWLES/ATTY. FOR PL.

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

DISPOSITION: Continued to June 11, 2025, at 11:00 a.m.

ORDER: The court will prepare the order.

On May 5, 2025, the Defendants in the above-styled adversary proceeding filed a Status Report advising the court that the parties have chosen to attempt resolution through the Bankruptcy Dispute Resolution Program ("B.D.R.P."), with a mediation scheduled for May 22, 2025. Doc. #26. Accordingly, this Status Conference is hereby CONTINUED to June 11, 2025, at 11:00 a.m., with the parties to submit joint or unilateral status reports filed and served on or before June 4, 2025.

2. [24-13235](#)-B-7 **IN RE: LUIS MERCADO**
[25-1004](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
1-27-2025 [\[1\]](#)

MERCADO V. U.S. DEPARTMENT OF EDUCATION ET AL

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

DISPOSITION: Concluded and dropped from the calendar.

ORDER: The court will prepare the order.

Luis Michael Mercado, Debtor in the underlying Chapter 7 proceeding ("Plaintiff"), filed this adversary proceeding against the United States Department of Education ("DOE") on January 27, 2025. Doc. #1. On February 18, 2025, Plaintiff filed what purported to be a Certificate of Service averring that the *Reissued Summons and Notice of Status Conference in an Adversary Proceeding* dated February 18, 2025, was served on the DOE at 400 Maryland Avenue, SW, Washington, D.C. 20202 via USPS. Doc. #10.

On April 9, 2025, because of multiple procedural deficiencies pertaining to proper service, the court dropped the Status Conference

from the calendar and continued it to May 14, 2025. Doc. #17. The court further directed Plaintiff to have his summons reissued and then serve it, along with the Complaint and any other accompanying documents, on the parties identified in the court's April 9 order via first class mail and then file a Certificate of Service using the official form. *Id.* If the Plaintiff effected such proper service prior to the May 14, 2025, hearing date and a new Status Conference hearing date was obtained, the instant matter would be concluded and dropped from the calendar in favor of the new Status Conference date, if any. If not, the court may issue an Order to Show Cause for Plaintiff's failure to expeditiously perfect service on the Defendant. *Id.*

On April 11, 2025, a summons was reissued which set the Status Conference for May 14, 2025, at 11:00 a.m. Doc. #19. On April 15, 2025, Plaintiff filed a Certificate of Service of the reissued summons. Doc. #21. However, other than updating the date of service from February 18, 2025, to April 14, 2025, the new Certificate of Service was in every respect identical to the one which the court previously found deficient. *Compare* Docs. #10 and Doc. #21. Consequently, the same procedural errors which doomed the prior Status Conference do the same for this one. Those errors include the following (text taken from the court's April 9, 2025, order):

First, Local Bankruptcy Rule ("LBR") 7005-1 requires service of pleadings and other documents in adversary proceedings, contested matters, and all other proceedings in this district that are filed by attorneys, trustees, or other Registered Electronic Filing System Users to document their service of any such pleadings and/or documents by filing a certificate of service and using the **Official Certificate of Service Form, EDC 007-005**. That form can be found on the court's website at <https://www.caeb.uscourts.gov/CertificateOfServiceForm> (visited November 14, 2025). Plaintiff did not employ the Official Form.

Second, Federal Rule of Civil Procedure ("FRCP") 4(c)(1), made applicable in adversary proceedings by Federal Rule of Bankruptcy Procedure ("FRBP") 7004(a)(1), requires that a summons must be served with a copy of the complaint. To the extent that Plaintiff provided any certificate of service at all (a single paragraph appended to a photocopy of the summons issued April 18, 2025), it only states that the *Reissued Summons and Notice of Status Conference* were served. There is no indication that any other documents were served. To effectuate proper service, Plaintiff must serve the Complaint and another accompanying documents such as declarations or exhibits along with the summons and then file a proper Certificate of Service attesting that he did so.

Third, FRBP 7004(b)(4) and (5) require that, when suing any agency of the United States (such as, here, the DOE), the Plaintiff must mail a copy of the summons and complaint to (a) the U.S. Attorney for the district in which the action is brought (here the Eastern District of California) addressed to the civil process clerk at that office, (b) to the Attorney General of the United States in Washington, D.C., and (c) to the officer or agency whose actions are challenged by the complaint. Here, the certificate of service, aside from its other deficiencies, states only that the DOE was served

Accordingly, this Status Conference is CONCLUDED and will be DROPPED from the calendar. An Order to Show Cause why this adversary proceeding should not be dismissed due to Plaintiff's failure to expeditiously perfect service of the Defendant is forthcoming.