

**UNITED STATES BANKRUPTCY COURT
Eastern District of California**

Honorable Christopher D. Jaime
Robert T. Matsui U.S. Courthouse
501 I Street, Sixth Floor
Sacramento, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: May 19, 2020

CALENDAR: 1:00 P.M. CHAPTER 13

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. 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 and no appearance is necessary. 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 seven (7) days of the final hearing on the matter.

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

May 19, 2020 at 1:00 p.m.

1. [19-23707](#)-B-13 MICHAEL/CAROLINE PANOPPIO MOTION TO MODIFY PLAN
RJ-1 Richard L. Jare 3-10-20 [[58](#)]

Final Ruling

The motion been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 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). Opposition was filed by the Trustee. A reply was filed by the Debtors.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The court's decision is to not permit the requested modification and not confirm the modified plan.

First, the Debtors are delinquent to the Chapter 13 Trustee in the amount of \$1,850.00, which represents approximately 0.725 plan payment. Debtors do not appear to be able to make plan payments proposed and have not carried the burden of showing that the plan complies with 11 U.S.C. § 1325(a)(6). Further, even assuming the delinquency is cured at the time of hearing, the plan remains unconfirmable for the reason stated below.

Second, the plan cannot be assessed or properly administered. Language at Section 7.04 of the Non-Standard Provisions appears to be limiting the amount that the trustee is to pay creditor Placer County. However, without a motion to value or an objection to claim, the trustee must pay the amount per the proof of claim. The plan does not comply with 11 U.S.C. § 1325(a)(1).

The modified plan does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

The motion is ORDERED DENIED for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

2. [20-21920](#)-B-13 LAMONT LEWIS AND MOTION TO VALUE COLLATERAL OF
[CYB](#)-1 DEEPANJALI SHANKAR LEWIS CARMAX BUSINESS SERVICES, LLC.
Thru #3 Candace Y. Brooks 5-4-20 [[16](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The court's decision is to conditionally value the secured claim of Carmax Business Services, LLC at \$15,204.00 and continue the hearing to June 2, 2020, at 1:00 p.m.

Debtors' motion to value the secured claim of Carmax Business Services, LLC ("Creditor") is accompanied by Debtors' declaration. Debtors are the owners of a 2016 Hyundai Tucson ("Vehicle"). The Debtors seek to value the Vehicle at a replacement value of \$15,204.00 as of the petition filing date. As the owners, Debtors' 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).

Proof of Claim Filed

The court has reviewed the Claims Registry for this bankruptcy case. Claim No. 3-1 filed by Carmax Business Services, LLC is the claim which may be the subject of the present motion.

Discussion

The lien on the Vehicle's title secures a purchase-money loan incurred on April 19, 2017, which is more than 910 days prior to filing of the petition, to secure a debt owed to Creditor with a balance of approximately \$21,605.77. Therefore, the Creditor's claim secured by a lien on the asset's title is under-collateralized. The Creditor's secured claim is determined to be in the amount of \$15,204.00. See 11 U.S.C. § 506(a). The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a) is conditionally granted.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), Creditor shall have until 5:00 p.m. on May 26, 2020, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Debtors' attorney, the Chapter 13 Trustee, and the United States Trustee by facsimile or email.

If no opposition or response is timely filed and served, Debtors' motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, the Debtors may submit an order that incorporates this ruling and vacates the continued hearing date of June 2, 2020, at 1:00 p.m.

The motion is ORDERED CONDITIONALLY GRANTED for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

3. [20-21920](#)-B-13 LAMONT LEWIS AND MOTION TO VALUE COLLATERAL OF
[CYB-2](#) DEEPANJALI SHANKAR LEWIS CARMAX BUSINESS SERVICES, LLC.
Candace Y. Brooks 5-4-20 [[21](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary).— The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The court's decision is to conditionally value the secured claim of Carmax Business Services, LLC at \$4,000.00 and continue the hearing to June 2, 2020, at 1:00 p.m.

Debtors' motion to value the secured claim of Carmax Business Services, LLC ("Creditor") is accompanied by Debtors' declaration. Debtors are the owners of a 2012 Chevrolet Malibu ("Vehicle"). The Debtors seek to value the Vehicle at a replacement value of \$4,000.00 as of the petition filing date. As the owners, Debtors' 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).

Proof of Claim Filed

The court has reviewed the Claims Registry for this bankruptcy case. Claim No. 2-1 filed by Carmax Business Services, LLC is the claim which may be the subject of the present motion.

Discussion

The lien on the Vehicle's title secures a purchase-money loan incurred on May 17, 2015, which is more than 910 days prior to filing of the petition, to secure a debt owed to Creditor with a balance of approximately \$6,255.23. Therefore, the Creditor's claim secured by a lien on the asset's title is under-collateralized. The Creditor's secured claim is determined to be in the amount of \$4,000.00. See 11 U.S.C. § 506(a). The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a) is conditionally granted.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), Creditor shall have until 5:00 p.m. on May 26, 2020, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Debtors' attorney, the Chapter 13 Trustee, and the United States Trustee by facsimile or email.

If no opposition or response is timely filed and served, Debtors' motion will be deemed granted for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, the Debtors may submit an order that incorporates this ruling and vacates the continued hearing date of June 2, 2020, at 1:00 p.m.

The motion is ORDERED CONDITIONALLY GRANTED for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

4. [19-24633](#)-B-13 MANUEL LOPEZ AND PAMELA MOTION TO VACATE DISMISSAL OF
[PGM](#)-3 CORREA LOPEZ CASE
Peter G. Macaluso 5-5-20 [[64](#)]
DEBTOR DISMISSED:
04/30/2020
JOINT DEBTOR DISMISSED:
04/30/2020

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The court's decision is to grant the motion to vacate dismissal of case.

Debtors move to vacate the order dismissing this Chapter 13 case. The Chapter 13 case was dismissed on April 30, 2020, after Debtors failed to file a stipulated ex parte motion to allow modification of plan by the time of the April 28, 2020, hearing.

Debtors filed a response stating that they had forwarded to the Chapter 13 Trustee on April 21, 2020, a copy of their proposed stipulated ex parte motion to allow modification of plan. Debtors state that they never received a response to this correspondence. In other words, Debtors contend that they fulfilled their obligation as ordered by the court. Because the court did not permit in-person court appearances due to the COVID-19 pandemic, Debtors' counsel was unable to bring this to the attention of the court.

Discussion

The above-described circumstances warrant relief under Federal Rule of Civil Procedure 59(e), applicable by Federal Rule of Bankruptcy Procedure 9023, to prevent a manifest injustice to the Debtors. See *Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011).

Additionally, Federal Rule of Civil Procedure 60(b)(1), applicable by Federal Rule of Bankruptcy Procedure 9024, permits the court to relieve a party from a final judgment or order for "mistake, inadvertence, surprise, or excusable neglect[.]" Fed. R. Civ. P. 60(b)(1); Fed. R. Bankr. P. 9024. Relief for excusable neglect is governed by the *Pioneer-Briones* factors, i.e., (1) the danger of prejudice to any non-moving party if the dismissal is vacated; (2) the length of delay and the potential impact of that delay on judicial proceeding; (3) the reason for the delay, including whether the delay was within the reasonable control of the movant; and (4) whether the debtor's conduct was in good faith. *Pioneer Inv. Servs. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 395 (1993); *Briones v. Riviera Hotel & Casino*, 116 F.3d 379, 381 (9th Cir. 1997). Danger of prejudice to creditors is minimal. Debtors moved quickly after this case was dismissed to set aside the dismissal order. Vacating dismissal will not delay judicial proceedings. Dismissal also resulted from an oversight outside the control of Debtors' counsel, who had sent a stipulated ex parte motion to allow modification of the plan to the Chapter 13 Trustee but never received a response. And there is no indication of any bad faith by the Debtors.

Therefore, the Debtors' motion to vacate the order dismissing this Chapter 13 case will be granted, the dismissal order at dkt. 62 vacated, and this case ordered reinstated.

Further, by vacating the dismissal order which caused the automatic stay of 11 U.S.C. § 362(a) to terminate, upon entry of the order vacating the dismissal order the automatic stay of § 362(a) is revived for all purposes and as to all parties in interest. *State*

Bank of Southern Utah v. Gledhill (In re Gledhill), 76 F.3d 1070, 1079-1080 and n.8 (10th Cir. 1996); *Ramirez v. Whelen (In re Ramirez)*, 188 B.R. 413, 416 (9th Cir. BAP 1995) ("Occasionally, it might suffice to revive the stay by way of motion for reconsideration under Federal Rules of Civil Procedure 59(e) or 60(b), which are applicable in bankruptcy by virtue of Federal Rules of Bankruptcy Procedure 9021 and 9023 [sic].") (Klein, J., concurring)

The motion is ORDERED GRANTED for reasons stated in the ruling appended to the minutes.

The court will prepare a minute order.

5. [19-21543](#)-B-13 ESTER NINO
[WLG](#)-2 Nicholas Wajda

MOTION TO MODIFY PLAN
4-9-20 [[42](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 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). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtor has filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the ruling appended to the minutes. Counsel for the Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will enter a minute order.

6. [20-20843](#)-B-13 MARLON/MICHELLE AMENDED OBJECTION TO
 [DPC](#)-2 VALENZUELA CONFIRMATION OF PLAN BY DAVID
 Thru #7 Steele Lanphier P. CUSICK
 4-24-20 [[31](#)]

Final Ruling

The court has before it an amended objection to confirmation. The objection to confirmation of plan by Data Mortgage, Inc. (dkt. 19, KMM-1) has been continued a number of times from the original hearing date of April 14, 2020, to April 21, 2020, and finally to May 19, 2020, because debtors Marlon Valenzuela and Michelle Valenzuela ("Debtors") failed to appear at the initial and two continued \$ 341 creditors' meetings. See dks. 24, 26, 28, 30.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The court's decision is to sustain the objection and deny confirmation of the plan.

Discussion

Although the meeting of creditors has been continued a third time to June 18, 2020, the plan filed February 14, 2020, is not confirmable. Specifically, the Debtors have not made any payments into the plan since the case was filed. See dkt. 31. The Debtors are delinquent two plan payments each in the amount of \$2,987.26.

The plan filed February 14, 2020, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

The objection is ORDERED SUSTAINED for reasons stated in the ruling appended to the minutes.

The court will prepare a minute order.

7. [20-20843](#)-B-13 MARLON/MICHELLE CONTINUED OBJECTION TO
 [KMM](#)-1 VALENZUELA CONFIRMATION OF PLAN BY DATA
 Steele Lanphier MORTGAGE, INC.
 3-20-20 [[19](#)]

Final Ruling

This objection to confirmation of plan by Data Mortgage, Inc. has been continued a number of times from the original hearing date of April 14, 2020, to April 21, 2020, and finally to May 19, 2020, because debtors Marlon Valenzuela and Michelle Valenzuela ("Debtors") failed to appear at the initial and two continued \$ 341 creditors' meetings. See dks. 24, 26, 28, 30.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The court's decision is to sustain the objection and deny confirmation of the plan.

Discussion

Objecting creditor Data Mortgage, Inc. holds a deed of trust secured by the Debtors' residence. The creditor has filed a timely proof of claim in which it asserts \$36,297.11 in pre-petition arrearages. The plan does not propose to cure these arrearages. Because the plan does not provide for the surrender of the collateral for this claim, the plan must provide for payment in full of the arrearage as well as maintenance of the ongoing note installments. See 11 U.S.C. §§ 1322(b)(2), (b)(5) and 1325(a)(5)(B). Because it fails to provide for the full payment of arrearages, the plan cannot be confirmed.

The plan filed February 14, 2020, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

The objection is ORDERED SUSTAINED for reasons stated in the ruling appended to the minutes.

The court will prepare a minute order.

8. [20-21256](#)-B-13 SIDNEY/ANGELA MOORE
[SS-2](#) Scott D. Shumaker

MOTION TO VALUE COLLATERAL OF
ALLY FINANCIAL
4-20-20 [[33](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 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). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to value the secured claim of Ally Financial at \$12,500.00.

Debtors' motion to value the secured claim of Ally Financial ("Creditor") is accompanied by Debtors' declaration. Debtors are the owners of a 2016 Chrysler 300 ("Vehicle"). The Debtors seek to value the Vehicle at a replacement value of \$12,500.00 as of the petition filing date. As the owners, Debtors' 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).

The Chapter 13 Trustee filed a non-opposition to the motion.

No Proof of Claim Filed

The court has reviewed the Claims Registry for this bankruptcy case. No proof of claim has been filed by Creditor for the claim to be valued.

Discussion

The lien on the Vehicle's title secures a purchase-money loan incurred on June 9, 2017, which is more than 910 days prior to filing of the petition, to secure a debt owed to Creditor with a balance of approximately \$20,000.00. Therefore, the Creditor's claim secured by a lien on the asset's title is under-collateralized. The Creditor's secured claim is determined to be in the amount of \$12,500.00. See 11 U.S.C. § 506(a). The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a) is granted.

The motion is ORDERED GRANTED for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

Final Ruling

The motion been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 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). Opposition was filed by the Trustee and a response was filed by the Debtor.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The court's decision is to conditionally deny the motion and not confirm the plan.

The Debtor resolves two of the Chapter 13 Trustee's objections by (1) reducing administrative expenses from \$200.00 to \$100.00 per month to ensure that the plan payment covers the aggregate of the monthly amounts plus Trustee's fees and (2) having provided the Trustee with funds to cure post-petition mortgage arrears.

However, the Debtor is still delinquent to the Trustee in the amount of \$180.00 after having paid only \$3,000.00 out of the proposed monthly plan payment of \$3,180.00. The Debtor does not appear to be able to make plan payments proposed and has not carried the burden of showing that the plan complies with 11 U.S.C. § 1325(a)(6).

Nevertheless, in order to resolve the \$180.00 delinquency, and if the first two modifications will permit confirmation of the plan, in addition to the first two modifications, the confirmation order may provide for a one-time \$180.00 increase to a subsequent monthly payment in order to bring the Debtor current.

With these changes in the order confirming, the plan will be confirmed. Otherwise, the plan does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

The motion is ORDERED DENIED for reasons stated in the ruling appended to the minutes.

The court will enter a minute order.

Final Ruling

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 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). Opposition was filed.

The court has determined this matter may be decided on the papers. See General Order No. 618 at p.3, ¶ 3 (E.D. Cal. May 13, 2020) (ordering courthouse closure "until further notice" due COVID-19 pandemic and further ordering that all civil matters are to be decided on the papers unless the presiding judge determines a hearing is necessary). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f).

The court's decision is to confirm the first amended plan provided that monthly plan payments are sufficient to cover the aggregate of monthly amounts plus Trustee's fees.

The Chapter 13 Trustee objects to plan confirmation on grounds that the plan payment in the amount of \$2,700.00 does not equal the aggregate of the Trustee's fees, monthly post-petition contract installments due on Class 1 claims, the monthly payment for administrative expenses, and monthly dividends payable on account of Class 1 arrearage claims, Class 2 secured claims, and executory contract and unexpired lease arrearage claims. The aggregate of these monthly amounts plus Trustee's fees is \$3,826.97. The plan does not comply with Section 5.02 of the mandatory form plan.

In response, the Debtor states that he is willing to reduce the attorney fees from \$800.00 to \$400.00 per month during months 6-7, which Debtor states will be sufficient to cover the claims provided for in the plan.

If this resolves the Trustee's objection, the amended plan will be deemed to comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and will be confirmed.

The motion is ORDERED GRANTED for reasons stated in the ruling appended to the minutes. Counsel for the Debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will enter a minute order.

11. [19-27996](#)-B-13 JEFFREY MCCULLOUGH
[WLG](#)-2 Nicholas Wajda

MOTION TO CONFIRM PLAN
4-13-20 [[60](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 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). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtors has provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the ruling appended to the minutes. Counsel for the Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will enter a minute order.