

**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 21, 2024

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 21, 2024 at 1:00 p.m.

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1. [24-21113](#)-B-13 LAUREANO/ALONA TABAJEN MOTION FOR RELIEF FROM
[SKI](#)-1 Kathleen H. Crist AUTOMATIC STAY
4-17-24 [[11](#)]

AMERICREDIT FINANCIAL
SERVICES, INC. VS.

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 grant the motion for relief from automatic stay.

Americredit Financial Services, Inc. dba GM Financial ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2020 Chevrolet Corvette (the "Vehicle"). The moving party has provided the Declaration of Aaron Rangel to introduce into evidence the documents upon which it bases the claim and the obligation owed by the Debtor.

The Rangel Declaration states that Debtors are past due two pre-petition payments totaling \$3,553.76 and one post-petition payment totaling \$1,776.88. Additionally, Debtors' plan filed March 21, 2024, provides for the surrender of the Vehicle under Class 3.

Discussion

The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay since the Debtors and the estate have not made post-petition payments. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Additionally, once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 375-76 (1988); 11 U.S.C. § 362(g)(2). Based upon the evidence submitted, the court determines that there is no equity in the Vehicle for either the Debtors or the Estate. 11 U.S.C. § 362(d)(2). And no opposition or showing having been made by the Debtors or the Trustee, the court determines that the Vehicle is not necessary for any effective reorganization in this Chapter 13 case. Indeed, Debtors' plan filed March 21, 2024, provides for the surrender of the Vehicle in Class 3.

May 21, 2024 at 1:00 p.m.

The court shall issue an order terminating and vacating the automatic stay to allow creditor, its agents, representatives and successors, and all other creditors having lien rights against the Vehicle, to repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

There also being no objections from any party, the 14-day stay of enforcement under Rule 4001(a)(3) is waived.

No other or additional relief is granted by the court.

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

The court will issue an order.

2. [19-21321](#)-B-13 STEPHEN/STEPHANIE YOUNG MOTION FOR COMPENSATION FOR
RJ-[5](#) Richard L. Jare RICHARD JARE, DEBTORS
ATTORNEY(S)
4-23-24 [[108](#)]

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). Opposition was filed.

The court's decision is to grant the motion for compensation.

Request for Additional Fees and Costs

As part of confirmation of the Debtors' Chapter 13 plan, Richard Jare ("Applicant") consented to compensation in accordance with the Guidelines for Payment of Attorney's Fees in Chapter 13 Cases (the "Guidelines"). The court authorized payment of fees and costs totaling \$4,000.00, which was the maximum set fee amount under Local Bankruptcy Rule 2016-1 at the time of confirmation. Applicant now seeks additional compensation in the amount of \$1,563.14 in fees and costs. This is a reduction from \$5,500.00 in extraordinary services rendered to coincide with the amount currently held by the Chapter 13 Trustee that would otherwise spill over to unsecured creditors. Debtors have zero months left in their 60-month plan. Applicant provides a task billing analysis and supporting evidence of the services provided. Dkt. 110.

The Chapter 13 Trustee filed an opposition stating that the amount of additional fees and costs requested in the motion and Applicant's declaration are inconsistent, and that Debtors have not filed a declaration in support of the application for additional fees.

Applicant filed a response stating that the amount listed in his declaration was a clerical error and should be \$1,563.14. Also while Debtor Stephen Young indicated a willingness to agree to Applicant's request for additional fees which would otherwise be paid to unsecured creditors, Joint Debtor Stephanie Young did not.

Discussion

To obtain approval of additional compensation in a case where a "no-look" fee has been approved in connection with confirmation of the Chapter 13 plan, the applicant must show that the services for which the applicant seeks compensation are sufficiently greater than a "typical" Chapter 13 case so as to justify additional compensation under the Guidelines. *In re Pedersen*, 229 B.R. 445 (Bankr. E.D. Cal. 1999) (J. McManus). The Guidelines state that "counsel should not view the fee permitted by these Guidelines as a retainer that, once exhausted, automatically justifies a fee motion. . . . Only in instances where substantial and unanticipated post-confirmation work is necessary should counsel request additional compensation." Guidelines; Local Rule 2016-1(c)(3).

Applicant asserts that he provided services greater than a typical Chapter 13 case because it was unanticipated that the Debtors would try to start a business during COVID and have a new child causing their expenses to reel out of control and necessitating Applicant to contact the Chapter 13 Trustee's office on multiple occasions to request courtesy extensions and courtesy partial waivers in response to notices of default. Additionally, while Joint Debtor did not provide any indication of a willingness to agree to the request for additional fees, Debtor did and there has been no objection by unsecured creditors.

Given the aforementioned, the court finds the hourly rates reasonable and that the Applicant effectively used appropriate rates for the services provided. The court finds that the services provided by Applicant were substantial and unanticipated, and

in the best interest of the Debtors, estate, and creditors.

Movant is allowed, and the Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Additional fees and costs	\$1,563.14
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The motion is ORDERED GRANTED for additional fees and costs of \$1,563.14.

The court will issue an order.

3. [24-20853](#)-B-13 MELANIE/SHANE BRITT OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Peter G. Macaluso PLAN BY LILIAN G TSANG
Thru #3 4-24-24 [[37](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Nonetheless, the court determines that the resolution of this matter does not require oral argument. See Local Bankr. R. 9014-1(h).

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

The Chapter 13 Trustee ("Trustee") filed an objection to confirmation raising issues such as an unconcluded meeting of creditors, failure to provide tax returns and business documents, and feasibility depending on motions to value collateral.

Debtors filed a response stating that they do not oppose sustaining the Trustee's objection because they intend to file an amended plan.

Given the above, the objection to confirmation is sustained and the plan is not confirmed.

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

The court will issue an order.

4. [24-20853](#)-B-13 MELANIE/SHANE BRITT OBJECTION TO CONFIRMATION OF
[RDW](#)-1 Peter G. Macaluso PLAN BY PATELCO CREDIT UNION
4-22-24 [[32](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Nonetheless, the court determines that the resolution of this matter does not require oral argument. See Local Bankr. R. 9014-1(h).

The court's decision is to overrule the objection as moot.

The plan filed March 5, 2024, was not confirmed for reasons stated at Item #3, LGT-1. Therefore, the objection to confirmation by Patelco Credit Union is overruled as moot.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.