



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

May 28, 2024 at 1:30 p.m.

Unless otherwise ordered, all matters before the Honorable Christopher M. Klein shall be simultaneously: (1) **In Person**, at Sacramento Courtroom #35, (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 who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

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

Please also note the following:

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

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

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

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

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UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

May 28, 2024 at 1:30 p.m.

1. [20-20109](#)-C-13 KARLA SLADARIU MOTION TO MODIFY PLAN
[PGM](#)-2 Peter Macaluso 4-1-24 [[127](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 57 days' notice was provided. Dkt. 132.

The Motion to Modify is denied.

The debtor filed this Motion seeking to confirm the Modified Chapter 13 Plan (Dkt. 129) filed on April 1, 2024.

The Chapter 13 Trustee filed an Opposition (Dkt. 135) on May 14, 2024, opposing confirmation on the following grounds:

1. Debtor is delinquent in plan payments; and
2. The plan fails to fully provide for postpetition arrears to PHH Mortgage.

The debtor filed a reply (dkt. 138) on May 21, 2024, representing that the April payment is in transit and once the payment is posted the postpetition arrears will be correct under the modified plan.

DISCUSSION

The debtor is \$3,000.00 delinquent in plan payments. Declaration, Dkt. 136. Delinquency indicates that the plan is not feasible and is reason to deny confirmation. See 11 U.S.C. § 1325(a)(6).

Notwithstanding whether the plan fully provides for the postpetition arrearage as the Trustee argues, the debtor has not carried her burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

Upon review of the record, the court finds the plan does not comply with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is denied, and the plan 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 Modify Plan filed by the debtor, Karla Sladariu, 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 denied, and the plan is not confirmed.

2. [24-21109](#)-C-13 LAJUAN ANDREWS
[LGT](#)-1 Richard Jare

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
5-7-24 [[14](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 17.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, Lilian Tsang ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The 341 meeting has not yet concluded.

DISCUSSION

The Meeting of Creditors held pursuant to 11 U.S.C. § 341 has not yet been concluded. While the Meeting of Creditors is still ongoing and there are additional questions by the Chapter 13 Trustee and any creditors who appear that may materially affect the case and determine whether the plan is confirmable. See 11 U.S.C. § 521(a)(3). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

That is reason to deny confirmation. Therefore, 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, Lilian Tsang, 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 sustained.

Final Ruling: No appearance at the May 28, 2024 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 50 days' notice was provided. Dkt. 26.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Confirm is granted.

The debtors filed this Motion seeking to confirm the Amended Chapter 13 Plan (Dkt. 25) filed on April 8, 2024.

No opposition to the Motion has been filed.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322 and 1325(a). The Motion is granted, and the plan 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 filed by the debtor, Maria Tamez, 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, the debtor's Amended Chapter 13 Plan (Dkt. 25) meets the requirements of 11 U.S.C. §§ 1322 and 1325(a), and the plan is confirmed. 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 trustee will submit the proposed order to the court.

4. [24-20128](#)-C-13 DEAN/BERTHA SIMMONS
[TLA](#)-1 Thomas Amberg

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF AMBERG HARVEY FOR
THOMAS L. AMBERG, JR, DEBTORS
ATTORNEY(S)
4-15-24 [[24](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 43 days' notice was provided. Dkt. 29.

The Motion for Allowance of Professional Fees is granted.

Thomas L. Amberg, Jr. filed this first interim request seeking approval of compensation for attorney services provided to debtors, Dean and Bertha Simmons.

Fees are requested for the period November 24, 2023, through April 15, 2024. The movant requests fees in the amount of \$3,510.00. Movant represents that he received \$1,000.00 prior to the filing of the case.

DISCUSSION

Hourly Fees

The court finds that the hourly rates are reasonable and that the movant effectively used appropriate rates for the services provided. First interim fees in the amount of \$3,510.00 are approved pursuant to 11 U.S.C. § 331, and subject to final review pursuant to 11 U.S.C. § 330, and \$2,510 are authorized to be paid by the Chapter 13 trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 13 case.

The court authorizes the Chapter 13 trustee to pay 100% of the fees allowed by the court.

The Chapter 13 trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$2,510.00
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pursuant to this Motion as interim fees pursuant to 11 U.S.C. § 331 in this case.

The court shall issue an 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 for Allowance of Fees and Expenses filed by Thomas L. Amberg, Jr. ("Movant") having been presented to

the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Movant is allowed the following fees and expenses as a professional of the Estate:

Movant, Professional employed by debtors, Dean and Bertha Simmons,

Fees in the amount of \$3,510.00

as an interim allowance of fees and expenses pursuant to 11 U.S.C. § 331 and subject to final review and allowance pursuant to 11 U.S.C. § 330.

IT IS FURTHER ORDERED that the Chapter 13 trustee is authorized to pay \$2,510.00 of the fees by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 13 case.

5. [24-21032](#)-C-13 DOUGLAS LEARY AND VAN OBJECTION TO CONFIRMATION OF
[LGT](#)-1 NGUYEN PLAN BY LILIAN G. TSANG
Mikalalah Liviakis 5-9-24 [[18](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 19 days' notice was provided. Dkt. 21.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, Lilian Tsang ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The plan is not feasible;
2. The debtor has failed to provide all requested documents to the Trustee; and
3. The debtors' income is not accurately listed the debtors' Statement of Financial Affairs.

DISCUSSION

The plan mathematically requires a payment of \$1,039.00 per month, which is greater than the proposed \$400.00 payment.

The debtor has not demonstrated the plan is feasible because the plan terms require a higher payment than what is proposed and the claim filed by the IRS is greater than the amounts that provides for priority claims. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

The debtor has not filed all business documents including:

- A. Questionnaire,
- B. Two years of tax returns,
- C. Six months of profit and loss statements,
- D. Six months of bank account statements, and
- E. Proof of license and insurance or written statement that no such documentation exists.

11 U.S.C. §§ 521(e)(2)(A)(i), 704(a)(3), 1106(a)(3), 1302(b)(1), 1302(c); FED. R. BANKR. P. 4002(b)(2) & (3). Debtor is required to submit those documents and cooperate with the Chapter 13 Trustee. 11 U.S.C. § 521(a)(3). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1) & (a)(6).

That is reason to deny confirmation. Therefore, 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, Lilian Tsang, 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 sustained.

6. [23-22836](#)-C-13 ARTHUR ROBINSON
[EMU](#)-3 Peter Macaluso

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-3-24 [[72](#)]

TIA JOHNSON VS.

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 55 days' notice was provided. Dckt. 80.

The Motion for Relief from the Automatic Stay is xxxxxx.

Tia Renae Johnson ("Movant") filed this Motion seeking relief from the automatic stay to allow a Verified Complaint for Partition in Sacramento County (the "Litigation") to be concluded.

Movant argues that the co-debtor stay does not adequately protect her because Movant received the consideration for the claim held and she is therefore, the actual debtor. Declaration, Dkt. 75.

DEBTOR'S OPPOSITION

Debtor filed an opposition on May 11, 2024, arguing that the Movant filed a proof of claim in this case and the plan fully provides for the claim as a class 2 claim in the confirmed plan. Therefore, debtor asserts that motion fails to provide cause why relief should be granted.

DISCUSSION

The court may grant relief from stay for cause when it is necessary to allow litigation in a nonbankruptcy court. 3 COLLIER ON BANKRUPTCY ¶ 362.07[3][a] (Alan N. Resnick & Henry J. Sommer eds. 16th ed.). The moving party bears the burden of establishing a prima facie case that relief from the automatic stay is warranted, however. *LaPierre v. Advanced Med. Spa Inc. (In re Advanced Med. Spa Inc.)*, No. EC-16-1087, 2016 Bankr. LEXIS 2205, at *8-9 (B.A.P. 9th Cir. May 23, 2016). To determine "whether cause exists to allow litigation to proceed in another forum, 'the bankruptcy court must balance the potential hardship that will be incurred by the party seeking relief if the stay is not lifted against the potential prejudice to the debtor and the bankruptcy estate.'" *Id.* at *9 (quoting *Green v. Brotman Med. Ctr., Inc. (In re Brotman Med. Ctr., Inc.)*, No. CC-08-1056-DKMo, 2008 Bankr. LEXIS 4692, at *6 (B.A.P. 9th Cir. Aug. 15, 2008)) (citing *In re Aleris Int'l, Inc.*, 456 B.R. 35, 47 (Bankr. D. Del. 2011)). The basis for such relief under 11 U.S.C. § 362(d)(1) when there is pending litigation in another forum is predicated on factors of judicial economy, including whether the suit involves multiple parties or is ready for trial. See *Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d 1162 (9th Cir. 1990); *Packerland Packing Co. v. Griffith Brokerage Co. (In*

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re Kemble), 776 F.2d 802 (9th Cir. 1985); *Santa Clara Cty. Fair Ass'n v. Sanders (In re Santa Clara Cty. Fair Ass'n)*, 180 B.R. 564 (B.A.P. 9th Cir. 1995); *Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551 (Bankr. C.D. Cal. 2004).

At the hearing xxxxxxxxxxxx

The court shall issue an 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 for Relief from the Automatic Stay filed by Tia Renae Johnson ("Movant") 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 automatic stay provisions of 11 U.S.C. § 362(a) are xxxxxxxxxxxx

7. [23-23636](#)-C-13 LISA/SEAN BYRD MOTION TO APPROVE LOAN
[PGM](#)-2 Peter Macaluso MODIFICATION
4-22-24 [[77](#)]

Final Ruling: No appearance at the May 28, 2024 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 36 days' notice was provided. Dkt. 81.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Approve Loan Modification is granted.

The debtors, Sean and Lisa Byrd, filed this Motion seeking authority to enter into a partial claims mortgage loan modification agreement.

The proposed financing is in the principal amount of \$15,050.22, which matures on July 1, 2051.

The court finds that the proposed credit, based on the unique facts and circumstances of this case, is reasonable. There being no opposition from any party in interest and the terms being reasonable, 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 Loan Modification filed by Sean and Lisa Byrd 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. The debtor's counsel shall prepare an appropriate order granting the Motion, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved submit the proposed order to the court.

8. [23-24141](#)-C-13 NICHOLAS TEYKAERTS AND MOTION TO MODIFY PLAN
[TLA](#)-1 KATIE JACKSON 4-22-24 [[16](#)]
Thomas Amberg

Final Ruling: No appearance at the May 28, 2024 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 36 days' notice was provided. Dkt. 22.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Modify is granted.

The debtors filed this Motion seeking to modify the terms of the confirmed plan pursuant to 11 U.S.C. § 1329.

No opposition to the Motion has been filed.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is granted, and the plan 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 Modify Plan filed by the debtors, Nicholas Teykaerts and Katie Jackson, 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, the Modified Chapter 13 Plan (Dkt. 20) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. 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 trustee will submit the proposed order to the court.

9. [23-24645](#)-C-13 STEVEN/TAMMY CARROLL
[SKI](#)-2 Nicholas Wajda

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-5-24 [[52](#)]

MERCEDES-BENZ VEHICLE TRUST
VS.

This matter was resolved by stipulated order that was entered on May 19, 2024. Dkt. 78. No appearance at the May 28, 2024 hearing is required.

Final Ruling: No appearance at the May 28, 2024 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 60 days' notice was provided. Dkt. 28.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Confirm is granted.

The debtors filed this Motion seeking to confirm the Amended Chapter 13 Plan (Dkt. 23) filed on March 28, 2024.

No opposition to the Motion has been filed.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322 and 1325(a). The Motion is granted, and the plan 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 filed by the debtors, Brian and Leticia Kakonyi, 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, the debtor's Amended Chapter 13 Plan (Dkt. 23) meets the requirements of 11 U.S.C. §§ 1322 and 1325(a), and the plan is confirmed. 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 trustee will submit the proposed order to the court.

11. [23-23159](#)-C-13 JENNIFER O'MARA-RAMIREZ MOTION TO MODIFY PLAN
[JB-1](#) AND HERIBERTO RAMIREZ 4-10-24 [[28](#)]
Jason Borg

Final Ruling: No appearance at the May 28, 2024 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 47 days' notice was provided. Dkt. 33.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Modify is granted.

The debtors filed this Motion seeking to modify the terms of the confirmed plan pursuant to 11 U.S.C. § 1329.

No opposition to the Motion has been filed.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is granted, and the plan 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 Modify Plan filed by the debtors, Jennifer O'Mara-Ramirez and Heriberto Ramirez, 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, the Modified Chapter 13 Plan (Dkt. 27) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. 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 trustee will submit the proposed order to the court.

12. [24-20059](#)-C-13 HOLLIE OATES
[TLA](#)-1 Thomas Amberg

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF AMBERG/HARVEY FOR
THOMAS L. AMBERG, JR., DEBTORS
ATTORNEY(S)
4-12-24 [[15](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 46 days' notice was provided. Dkt. 20.

The Motion for Allowance of Professional Fees is granted.

Thomas L. Amberg, Jr. filed this first interim request seeking approval of compensation for attorney services provided to debtor, Hollie Oates.

Fees are requested for the period October 30, 2023, through April 12, 2024. The movant requests fees in the amount of \$3,185.00. Movant represents that he received \$1,000.00 prior to the filing of the case.

DISCUSSION

Hourly Fees

The court finds that the hourly rates are reasonable and that the movant effectively used appropriate rates for the services provided. First interim fees in the amount of \$3,185.00 are approved pursuant to 11 U.S.C. § 331, and subject to final review pursuant to 11 U.S.C. § 330, and \$2,510 are authorized to be paid by the Chapter 13 trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 13 case.

The court authorizes the Chapter 13 trustee to pay 100% of the fees allowed by the court.

The Chapter 13 trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$2,185.00
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pursuant to this Motion as interim fees pursuant to 11 U.S.C. § 331 in this case.

The court shall issue an 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 for Allowance of Fees and Expenses filed

by Thomas L. Amberg, Jr. ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Movant is allowed the following fees and expenses as a professional of the Estate:

Movant, Professional employed by debtor, Hollie Oates,

Fees in the amount of \$3,185.00

as an interim allowance of fees and expenses pursuant to 11 U.S.C. § 331 and subject to final review and allowance pursuant to 11 U.S.C. § 330.

IT IS FURTHER ORDERED that the Chapter 13 trustee is authorized to pay \$2,185.00 of the fees by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 13 case.

13. [24-20161](#)-C-13 DANIEL GALBICK
[AVN](#)-1 Anh Nguyen

MOTION TO DISMISS CASE
4-24-24 [[21](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 24.

The Motion to Dismiss is granted, and the case is dismissed.

The debtor, Daniel Mark Galbick, filed this Motion To Dismiss because he has lost his job shortly after the case was filed and health conditions.

Debtor's counsel has filed a declaration that the debtor was in the hospital and that he no longer wishes to continue the case. Declaration, dkt. 23.

The debtor may dismiss a case under Chapter 13, as long as the case has not previously been converted from another chapter, at any time. 11 U.S.C. § 1307(b). Therefore, the Motion is granted, and the case is dismissed.

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 Dismiss the Chapter 13
case filed by the debtor, Daniel Mark Galbick,
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
Dismiss is granted, and the case is dismissed.

14. [18-22662](#)-C-13 RAJINDAR SINGH
[PGM](#)-6 Peter Macaluso

CONTINUED OBJECTION TO CLAIM OF
LOANME, INC., CLAIM NUMBER 4-1
3-14-24 [[190](#)]

No Tentative Ruling:

The Objection has been set on Local Rule 3007-1(b) (1) procedure which requires 44 days' notice. The Proof of Service shows that 47 days' notice was provided. Dkt. 195.

The Objection to Proof of Claim is xxxxxxxxxx

The Debtor, Rajindar Singh, filed this Objection arguing that Proof of Claim, No. 4, filed by LoanMe, Inc. should be disallowed.

Debtor asserts that the amount and classification of the claim are incorrect and unsubstantiated. Further, debtor represents that payments to the creditor are being returned because the creditor is no longer doing business.

This matter was continued from April 30, 2024 to allow the debtor to further discuss the issue with the Chapter 13 Trustee.

Debtor filed a supplemental objection asserting that the holding in In re Pickett, 632 B.R. 78 (Bankr. E.D. Cal. 2021), does not apply because this case is a case under Chapter 13 rather than a case under Chapter 7, and because the funds here are not "unclaimed" within the meaning of 11 U.S.C. § 347(a). Debtor points to a case in the Eastern District of Virginia, In re IBIS Corp., 272 B.R. 883, 880 (Bankr. E.D. Va. 2001), for the proposition that returned funds from a secured creditor are not unclaimed property pursuant to 11 U.S.C. § 347.

DISCUSSION

Section 502(a) provides that a claim supported by a proof of claim is allowed unless a party in interest objects. See 11 U.S.C. § 502(a). Once an objection has been filed, the court may determine the amount of the claim after a noticed hearing. See 11 U.S.C. § 502(b). The party objecting to a proof of claim has the burden of presenting substantial factual basis to overcome the prima facie validity of a proof of claim and the evidence must be of probative force equal to that of the creditor's proof of claim. *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991); see also *United Student Funds, Inc. v. Wylie (In re Wylie)*, 349 B.R. 204, 210 (B.A.P. 9th Cir. 2006). Moreover, "[a] mere assertion that the proof of claim is not valid or that the debt is not owed is not sufficient to overcome the presumptive validity of the proof of claim." Local Bankr. R. 3007-1(a).

At the hearing xxxxxxxxxx

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 filed in this case by the debtors, Rajindar Singh, 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 of LoanMe, Inc. is **xxxxxxxx**

15. [23-22374](#)-C-13 WILLIE WATSON
[LGT](#)-3 Peter Cianchetta

MOTION TO DISMISS CASE
4-16-24 [[209](#)]

This matter will be heard at 2:00 p.m. alongside the Chapter 13 Trustee's Motion to Dismiss Case.

16. [23-22088](#)-C-13 LISA HOOKS
[FF-1](#) Gary Fraley

OBJECTION TO CLAIM OF
BROOKFIELD HOMEOWNERS
ASSOCIATION, CLAIM NUMBER 21-1
3-25-24 [[26](#)]

Tentative Ruling:

The Objection has been set on Local Rule 3007-1(b) (1) procedure which requires 44 days' notice. The Proof of Service shows that 64 days' notice was provided. Dkt. 29.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Objection to Proof of Claim is sustained.

The Debtor, Lisa Hooks, filed this Objection arguing that Proof of Claim, No. 21-1, filed by Brookfield Homeowners Association c/o Allied Trustee Services should be disallowed.

Debtor contends that claimant has not provided any documentation to support the amount of the claim asserted.

DISCUSSION

Section 502(a) provides that a claim supported by a proof of claim is allowed unless a party in interest objects. See 11 U.S.C. § 502(a). Once an objection has been filed, the court may determine the amount of the claim after a noticed hearing. See 11 U.S.C. § 502(b). The party objecting to a proof of claim has the burden of presenting substantial factual basis to overcome the prima facie validity of a proof of claim and the evidence must be of probative force equal to that of the creditor's proof of claim. *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991); see also *United Student Funds, Inc. v. Wylie (In re Wylie)*, 349 B.R. 204, 210 (B.A.P. 9th Cir. 2006). Moreover, "[a] mere assertion that the proof of claim is not valid or that the debt is not owed is not sufficient to overcome the presumptive validity of the proof of claim." Local Bankr. R. 3007-1(a).

The court finds that the Debtor has satisfied its burden of overcoming the presumptive validity of the claim. Based on the evidence before the court, the Creditor's claim is disallowed in its entirety. The objection to the proof of claim 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 Claim filed in this case by the debtors, William Cunningham, Jr. and Belinda Cunningham, 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 21 of Brookfield Homeowners Association c/o Allied Trustee Services is sustained and disallowed in its entirety.

17. [22-20492](#)-C-13 GENEROSA DIZON
[LGT](#)-1 Lewis Phon

CONTINUED MOTION TO PAY
4-2-24 [[290](#)]

This matter has been continued to August 6, 2024 pursuant to the stipulated order that was entered on May 23, 2024. No appearance at the May 28, 2024 hearing is required.

18. [22-20492](#)-C-13 GENEROSA DIZON
[MJH](#)-3 Lewis Phon

CONTINUED AMENDED MOTION TO
DIRECT PAYMENT OF DEBTOR FUNDS
HELD BY CHAPTER 13 STANDING
TRUSTEE TO STANISLAUS COUNTY
SHERIFF CIVIL, LEVYING OFFICER
FILE NO. 2024001122, TO THE
BENEFIT OF JENNINE C. BANAYAT,
CREDITOR
4-19-24 [[305](#)]

This matter has been continued to August 6, 2024 pursuant to the stipulated order that was entered on May 23, 2024. No appearance at the May 28, 2024 hearing is required.