

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

Honorable Christopher D. Jaime
1200 I Street, Suite 200
Modesto, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: June 6, 2023

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.

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Modesto, California

June 6, 2023 at 1:00 p.m.

1. [23-90105](#)-B-13 TRINIDAD RODRIGUEZ OBJECTION TO CONFIRMATION OF
[EAT](#)-1 Peter G. Macaluso PLAN BY U.S. BANK NATIONAL
Thru #2 ASSOCIATION
4-13-23 [[16](#)]

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.

Subsequent to the filing of U.S. Bank National Association's objection, the Debtor filed an amended plan on May 26, 2023. The confirmation hearing for the amended plan is scheduled for July 11, 2023. The earlier plan filed March 11, 2023, is not confirmed.

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

The court will issue an order.

2. [23-90105](#)-B-13 TRINIDAD RODRIGUEZ OBJECTION TO CONFIRMATION OF
[RDG](#)-1 Peter G. Macaluso PLAN BY RUSSELL D. GREER
5-9-23 [[20](#)]

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.

Subsequent to the filing of the Chapter 13 Trustee's objection, the Debtor filed an amended plan on May 26, 2023. The confirmation hearing for the amended plan is scheduled for July 11, 2023. The earlier plan filed March 11, 2023, is not confirmed.

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

The court will issue an order.

June 6, 2023 at 1:00 p.m.

3. [23-90109](#)-B-13 PHILIP/DENISE CARRILLO
[RDG-1](#) Eric J. Gravel

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
5-4-23 [[19](#)]

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). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the objection. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

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

First, the Debtors' Disclosure of Compensation of Attorney for Debtor states that the agreed upon fee of \$4,000.00 does not include judicial lien avoidances and relief from stay actions. This is contradictory to the Rights and Responsibilities signed by Debtors and their attorney. This is also a violation of Local Bankruptcy Rule 2017-1(a)(1) which makes these services mandatory. These services are included in the "No Look Fee" and should not be excluded.

Second, the Debtors' Form 122C-1 indicates gross receipts from operating a business of \$22,597.96 and ordinary and necessary operating expenses of \$22,858.94. The Debtors must provide a profit and loss statement for the six-month period prior to filing. Without this information, it cannot be determined whether Debtors' projected disposable income will be applied to make payments to unsecured creditors under the plan. 11 U.S.C. § 1325(b).

Third, Debtors' Schedule I lists gross wages for Denise Carrillo of \$6,000.17. However, the pay advice submitted to the Trustee for Mrs. Carrillo dated March 31, 2023, indicates year-to-date gross income of \$21,365.18, or an average of \$7,121.73 per month. The Debtors must provide evidence as to how Mrs. Carrillo's gross wages were determined.

Fourth, the pay advices submitted for Philip Carrillo include deductions for a 403(b) account of approximately \$207.69 bi-weekly. That deduction does not appear on Debtors' Schedule I. Without additional information regarding the 403b deductions, it cannot be determined if the plan is feasible. 11 U.S.C. § 1325(a)(6).

Fifth, Debtors' Schedule J includes a housing expense of \$3,487.33. The plan at Section 3.10 states that the loan repayment is in deferment for March, April, and May 2023. Debtors must explain the impact of the deferment and the excess funds in the amount of \$10,461.99 on the plan.

Sixth, Debtors' petition lists James Auto Truck Service and their 2021 income tax returns include a Profit or Loss from Business statement from the business. However, Debtors' failed to list the business on their Statement of Financial Affairs at number 27. 11 U.S.C. § 1325(a)(3).

The plan filed March 16, 2023, 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 minutes.

The court will issue an order.

4. [23-90010](#)-B-13 MARIA NAVARRO OBJECTION TO CLAIM OF SCENIC
[TMO](#)-1 T. Mark O'Toole OAKS FUNDING, LLC, CLAIM NUMBER
[Thru #5](#) 4-1
4-20-23 [[29](#)]

Final Ruling

The court has determined that an evidentiary hearing is necessary to resolve the objection. Therefore, good cause appearing:

ORDERED that an evidentiary hearing is set on **Monday, July 3, 2023, at 10:00 a.m.** in the Sacramento courtroom, Courtroom 32, 501 I Street, Sacramento, California. All parties, witnesses, and attorneys shall be present in person. Video and telephonic appearances are not permitted.

FURTHER ORDERED that secured creditor Scenic Oaks Funding, LLC ("Creditor") shall have until **June 20, 2023**, to file and serve a response to what it asserts is new or additional evidence submitted with the reply on May 30, 2023. See *U.S.D.A. v. Hopper (In re Colusa Regional Medical Center)*, 604 B.R. 839, 852 (9th Cir. BAP 2019). The response shall be limited to the scope of the evidence submitted with the reply. No further response(s) shall be filed thereafter by either party.

FURTHER ORDERED that parties shall file and electronically serve the alternate direct testimony declaration of any witness who will testify by **12:00 p.m. on June 27, 2023.** No witness shall testify without an alternate direct testimony declaration.

FURTHER ORDERED that exhibits shall consist of documents filed with and in opposition to the objection, including any additional exhibits Creditor may file in response to this ruling.

FURTHER ORDERED that evidentiary objections shall be filed and served by **12:00 p.m. on June 30, 2023.** Objections not made are deemed waived.

No appearance at the June 6, 2023, hearing is required.

The court will issue an order.

5. [23-90010](#)-B-13 MARIA NAVARRO MOTION TO CONFIRM PLAN
[TMO](#)-2 T. Mark O'Toole 4-20-23 [[34](#)]

Final Ruling

No appearance at the June 6, 2023, hearing is required. This matter is continued to July 11, 2023, at 1:00 p.m. to be heard after the evidentiary hearing on the objection to claim of Scenic Oaks Funding, LLC, Claim Number 4-1.

The court will issue an order.

Final Ruling

The objection has been set for hearing on at least 30 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(b)(2). When fewer than 44 days' notice of a hearing is given, parties in interest were not required to file a written response or opposition.

The court has 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). This matter will therefore be decided on the papers.

The court's decision is to conditionally sustain the objection to Claim No. 17 of Zenresolve and continue the matter to June 13, 2023, at 1:00 p.m.

The Chapter 13 Trustee requests that the court disallow the claim of Zenresolve ("Creditor"), Claim No. 17. The claim is asserted to be in the amount of \$2,044.16. The Trustee asserts that the claim has not been timely filed. See Fed. R. Bankr. P. 3002(c). The deadline for filing proofs of claim in this case for a non-government unit was April 4, 2023. The Creditor's claim was filed April 6, 2023.

Section 501(a) of the Bankruptcy Code provides that any creditor may file a proof of claim. "A proof of claim is a written statement setting forth a creditor's claim." Rule 3001(a). If the claim meets the requirements of § 501, the bankruptcy court must then determine whether the claim should be allowed. Section 502(a) provides that a claim is deemed allowed unless a party in interest objects. If such an objection is made, the court shall allow such claim "except to the extent that the proof of claim is not timely filed." See 11 U.S.C. § 502(b)(9).

Federal Rule of Bankruptcy Procedure 3002(c) governs the time for filing proofs of claim in a Chapter 13 case. Rule 9006(b)(3) prohibits the enlargement of time to file a proof of claim under Rule 3002(c) except as provided in one of the circumstances included in Rule 3002(c). *Zidell, Inc. v. Forsch (In re Coastal Alaska Lines, Inc.)*, 920 F.2d 1428, 1432-1433 (9th Cir. 1990) ("We . . . hold that the bankruptcy court cannot enlarge the time for filing a proof of claim unless one of the six situations listed in Rule 3002(c) exists."). No showing has been made that any of those circumstances apply.

The court also notes that the excusable neglect standard does not apply to permit the court to extend the time to file a proof of claim under Rule 3002(c). As the Ninth Circuit stated in *Coastal Alaska*:

Rule 9006(b) plainly allows an extension of the 90-day time limit established by Rule 3002(c) only under the conditions permitted by Rule 3002(c). Rule 3002(c) identifies six circumstances where a late filing is allowed, and excusable neglect is not among them. Thus, the 90-day deadline for filing claims under Rule 3002(c) cannot be extended for excusable neglect.

Id. at 1432. In fact, the time for filing claims under Rule 3002(c) cannot be extended for any equitable reason at all. As stated in *Spokane Law Enforcement Credit Union v. Barker (In re Barker)*, 839 F.3d 1189, 1197 (9th Cir. 2016): "[T]he Ninth Circuit has repeatedly held that the deadline to file a proof of claim in a Chapter 13 proceeding is 'rigid' and the bankruptcy court lacks equitable power to extend this deadline after the fact."

In sum, Creditor filed an untimely proof of claim and has not demonstrated any reason that would permit the court to allow its late-filed proof of claim.

Based on the evidence before the court, the Creditor's claim is disallowed in its entirety as untimely. The objection to the proof of claim is conditionally sustained.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rule 3007-1(b)(2), any party in interest shall have until 5:00 p.m. on Friday, June 9, 2023, to file and serve an opposition or other response to the objection. See Local Bankr. R. 3007-1(b)(2). Any opposition or response shall be served on the Chapter 13 Trustee and creditor by facsimile or email.

If no opposition or response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on June 13, 2023, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the objection on June 13, 2023, at 1:00 p.m.

7. [22-90429](#)-B-13 MARY LYNN LEBOW
[ETW](#)-1 David C. Johnston

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-2-23 [[23](#)]

BRILENA, 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 stay.

Brilena, Inc. as to an undivided 18.1818% interest, Michael Bumbaca and Adele Bumbaca, husband and wife as joint tenants as to an undivided 40.0000% interest, and Neal L. Horn, M.D., a single man as to an undivided 41.8182% interest (hereinafter "Movant") seeks relief from the automatic stay with respect to real property commonly known as 1410 Tenaya Drive, Modesto, California (the "Property"). Movant has provided the Declaration of Michele Canty to introduce into evidence the documents upon which it bases the claim and the obligation secured by the Property.

The Canty Declaration states the Debtor has failed to provide proof of insurance and is one post-petition payments in default totaling \$576.34.

From the evidence provided to the court, and only for purposes of this motion, the total debt secured by this Property is determined to be \$55,077.22 as stated in the motion. The value of the Property is determined to be \$150,000.00 as stated in Schedules A/B and D filed by Debtor.

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, including defaults in post-petition payments which have come due. 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, it appears that there is no equity in the Property. Moreover, the Debtor has failed to establish that the Property is necessary to an effective reorganization. *First Yorkshire Holdings, Inc. v. Pacifica L 22, LLC (In re First Yorkshire Holdings, Inc.)*, 470 B.R. 864, 870 (Bankr. 9th Cir. 2012). [This being a Chapter 7 case, the property is *per se* not necessary for an effective reorganization. See *In re Preuss*, 15 B.R. 896 (B.A.P. 9th Cir. 1981).

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.

The 14-day stay of enforcement under Rule 4001(a)(3) is not 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.

Final Ruling

The motion has 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.

The court has 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). This matter will therefore be decided on the papers.

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

First, Debtors' plan is not feasible under 11 U.S.C. §1325(a)(6). Section 7.01 of Debtors' plan provides for plan payments to reduce from \$2,354.00 to \$765.00 beginning May 2023. Debtors have failed to file supplemental Schedules I and/or Schedule J to support the plan payment. Without the updated schedules and pay advices if appropriate, it cannot be determined whether the proposed plan is feasible.

Second, Debtor's plan proposes to stop payment to the Class 2 claim of Internal Revenue Service. Debtors state in their declaration that the Internal Revenue Service is paid in full and has released its tax liens for 2014 and 2015. Until Internal Revenue Service files an amended proof of claim or the Debtors have successfully objected to the claim filed by Internal Revenue Service, Debtors' plan is not feasible.

Third, Debtors' plan proposes to remove the claim of Internal Revenue Service from Class 2 of the plan. This creditor has already received disbursements from the Trustee.

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 minutes.

The court will issue an order.

9. [19-90983](#)-B-13 KIRK TROMBLEY
[MSN](#)-5 Mark S. Nelson

MOTION TO MODIFY PLAN
4-20-23 [[98](#)]

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 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 issue an order.

10. [22-90093](#)-B-13 JAMES RIDDLE
[RDG-3](#) Jason N. Vogelpohl

OBJECTION TO CLAIM OF TWO JINN,
INC. DBA ALADDIN BAIL BONDS,
CLAIM NUMBER 16
5-1-23 [[111](#)]

Final Ruling

The objection has been set for hearing on at least 30 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(b)(2). When fewer than 44 days' notice of a hearing is given, parties in interest were not required to file a written response or opposition.

The court has 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). This matter will therefore be decided on the papers.

The court's decision is to conditionally sustain the objection to Claim No. 16 of Two Jinn, Inc. dba Aladdin Bail Bonds and continue the matter to June 13, 2023, at 1:00 p.m.

The Chapter 13 Trustee requests that the court disallow the claim of Two Jinn, Inc. dba Aladdin Bail Bonds ("Creditor"), Claim No. 16. The claim is asserted to be in the amount of \$4,210.00. The Trustee asserts that the claim has not been timely filed. See Fed. R. Bankr. P. 3002(c). The deadline for filing proofs of claim in this case for a non-government unit was June 3, 2022. The Creditor's claim was filed August 10, 2022.

Section 501(a) of the Bankruptcy Code provides that any creditor may file a proof of claim. "A proof of claim is a written statement setting forth a creditor's claim." Rule 3001(a). If the claim meets the requirements of § 501, the bankruptcy court must then determine whether the claim should be allowed. Section 502(a) provides that a claim is deemed allowed unless a party in interest objects. If such an objection is made, the court shall allow such claim "except to the extent that the proof of claim is not timely filed." See 11 U.S.C. § 502(b)(9).

Federal Rule of Bankruptcy Procedure 3002(c) governs the time for filing proofs of claim in a Chapter 13 case. Rule 9006(b)(3) prohibits the enlargement of time to file a proof of claim under Rule 3002(c) except as provided in one of the circumstances included in Rule 3002(c). *Zidell, Inc. v. Forsch (In re Coastal Alaska Lines, Inc.)*, 920 F.2d 1428, 1432-1433 (9th Cir. 1990) ("We . . . hold that the bankruptcy court cannot enlarge the time for filing a proof of claim unless one of the six situations listed in Rule 3002(c) exists."). No showing has been made that any of those circumstances apply.

The court also notes that the excusable neglect standard does not apply to permit the court to extend the time to file a proof of claim under Rule 3002(c). As the Ninth Circuit stated in *Coastal Alaska*:

Rule 9006(b) plainly allows an extension of the 90-day time limit established by Rule 3002(c) only under the conditions permitted by Rule 3002(c). Rule 3002(c) identifies six circumstances where a late filing is allowed, and excusable neglect is not among them. Thus, the 90-day deadline for filing claims under Rule 3002(c) cannot be extended for excusable neglect.

Id. at 1432. In fact, the time for filing claims under Rule 3002(c) cannot be extended for any equitable reason at all. As stated in *Spokane Law Enforcement Credit Union v. Barker (In re Barker)*, 839 F.3d 1189, 1197 (9th Cir. 2016): "[T]he Ninth Circuit has repeatedly held that the deadline to file a proof of claim in a Chapter 13 proceeding is 'rigid' and the bankruptcy court lacks equitable power to extend this deadline after the fact."

In sum, Creditor filed an untimely proof of claim and has not demonstrated any reason that would permit the court to allow its late-filed proof of claim.

Based on the evidence before the court, the Creditor's claim is disallowed in its entirety as untimely. The objection to the proof of claim is conditionally sustained.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rule 3007-1(b)(2), any party in interest shall have until 5:00 p.m. on Friday, June 9, 2023, to file and serve an opposition or other response to the objection. See Local Bankr. R. 3007-1(b)(2). Any opposition or response shall be served on the Chapter 13 Trustee and creditor by facsimile or email.

If no opposition or response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on June 13, 2023, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the objection on June 13, 2023, at 1:00 p.m.

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 hardship discharge.

Debtor Tony Arellano ("Debtor") seeks a hardship discharge due to changes in his financial circumstances. Debtor had been employed with TCWGlobal as a procurement specialist from May 21, 2019, through February 28, 2023. His termination was a result of an "end of engagement." Debtor had anticipated getting re-hired or to gain employment shortly after, but that was not the case. Debtor thereafter applied for and was granted the maximum unemployment benefit of \$450.00 per week, which he began receiving in mid- to late-March. Debtor has been applying to multiple jobs without luck and the unemployment benefits are not sufficient to cover his basic living expenses, let alone monthly plan payments.

Separately, Debtor has a pending arbitration against American First Finance. Should the Debtor be successful in that action, the maximum amount that the Debtor would be entitled to is approximately \$5,000.00. According to the Supplemental Declaration of Tony Arellano, the parties have not reached a settlement and he therefore has not filed any motion to approve settlement agreement. Nonetheless, Debtor has filed amended schedules to list and exempt the pending claim against American First Finance.

Debtor states that all priority claims have been paid in full and that he has paid as much to his creditors as they would have received in a Chapter 7 proceeding. Debtor has no domestic support obligations and has filed all required tax returns for the four-year tax period prior to the date of filing.

Discussion

After confirmation of a plan, circumstances may arise that prevent a debtor from completing a plan of reorganization. In such situations, the debtor may ask the court to grant a "hardship discharge." 11 U.S.C. § 1328(b). Generally, such a discharge is available only if: (b)(1) the debtor's failure to complete plan payments is due to circumstances beyond the debtor's control and through no fault of the debtor; (b)(2) creditors have received at least as much as they would have received in a chapter 7 liquidation case; and (b)(3) modification of the plan is not possible under 11 U.S.C. § 1329. 11 U.S.C. § 1328(b)(1)-(3).

Here, the Debtor has satisfied 11 U.S.C. § 1328(b)(1)-(3). As to the first element, the Debtor's failure to make plan payments is due to having lost his job and now having only limited unemployment income that is sufficient to cover only basic expenses and not plan payments. Debtor is receiving unemployment benefits due to circumstances beyond his control, specifically that his employment with TCWGlobal expired at the end of his engagement. The Debtor has also been applying to jobs to supplement his limited unemployment income but has been unsuccessful. As to the second element, Debtor's creditors have already received at least as much as they would have received in a chapter 7 liquidation case. As to the last element, modification of the plan is not possible because Debtor does not have sufficient regular income to make even reduced plan payments.

The court grants the motion and the clerk of the court shall issue a discharge pursuant to 11 U.S.C. § 1328(b).

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

The court will issue an order.