

**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 7, 2022

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
Modesto, California

June 7, 2022 at 1:00 p.m.

1. [18-90329](#)-B-13 DANIEL/ANITA ALMANZA MOTION TO MODIFY PLAN
[TLC](#)-1 Tamie L. Cummins 5-2-22 [[75](#)]

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 Debtors have 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 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 issue an order.

June 7, 2022 at 1:00 p.m.

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2. [21-90557](#)-B-13 DUANE SHUGART
[EML](#)-4 Evan Livingstone

MOTION TO CONFIRM PLAN
4-28-22 [[59](#)]

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 Debtor 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 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.

3. [21-90158](#)-B-13 JILL MURPHY MOTION TO MODIFY PLAN
[LBF](#)-8 Lauren Franzella 4-29-22 [[98](#)]
Thru #4

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.

The Chapter 13 Trustee filed an opposition to modification of the plan on grounds that the feasibility of Debtor's plan is contingent upon the court granting Debtor's motion to incur debt. The court has granted Debtor's motion to incur debt at Item #4, LBF-9. Accordingly, Trustee's grounds for objecting to confirmation have been resolved and this objection will be overruled.

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.

4. [21-90158](#)-B-13 JILL MURPHY MOTION TO INCUR DEBT
[LBF](#)-9 Lauren Franzella 4-29-22 [[106](#)]

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.

The motion seeks permission to purchase a 2017 Jeep Compass ("Vehicle"), the total purchase price of which is \$31,307.20, with monthly payments of \$212.60. Debtor's previous car was a 2018 Dodge Ram ("Dodge"), which had monthly payments of \$858.63, and the payment through the plan was \$739.00 per month. The Debtor had several issues with the Dodge, and reached an agreement with the dealership to buy back the Dodge. The Debtor received a net proceed of \$22,828.41 from the dealership for the Dodge. Debtor filed amended Schedules A/B and C to list and exempt the proceeds from the settlement. Debtor used \$16,000.00 of the net proceeds received from the Dodge as a down payment

for the Vehicle. The amount to be financed is \$7,294.98 and the monthly payment on the loan will be \$212.60 per month.

Discussion

A motion to incur debt is governed by Federal Rule of Bankruptcy Procedure 4001(c). *In re Gonzales*, No. 08-00719, 2009 WL 1939850, at *1 (Bankr. N.D. Iowa July 6, 2009). Rule 4001(c) requires that the motion list or summarize all material provisions of the proposed credit agreement, "including interest rate, maturity, events of default, liens, borrowing limits, and borrowing conditions." Fed. R. Bankr. P. 4001(c)(1)(B). Moreover, a copy of the agreement must be provided to the court. *Id.* at 4001(c)(1)(A). The court must know the details of the collateral as well as the financing agreement to adequately review post-confirmation financing agreements. *In re Clemons*, 358 B.R. 714, 716 (Bankr. W.D. Ky. 2007).

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 motion is ORDERED GRANTED for reasons stated in the minutes.

The court will issue an order.

5. [21-90579](#)-B-13 MATTHEW/CELESTE JAMISON MOTION TO CONFIRM PLAN
[JAD](#)-1 Jessica A. Dorn 4-22-22 [[40](#)]

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 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 confirm the first amended plan.

The Debtors have failed to provide evidence that the plan is mathematically feasible. Debtors' plan provides for total priority claims in the amount of \$6,100.00. The amount of total priority claims in Debtors' plan reflects the amount owed based on the tax returns for the Debtors' 2016, 2017, and 2019 income tax returns, along with the Internal Revenue Service's proof of claim for the tax year 2020. However, on April 26, 2022, the Internal Revenue Service filed an amended proof of claim listing a priority amount of \$12,037.74. The amended claim includes priority claims in the amount of \$9,506.04 as estimated priority claims due for the tax period of December 31, 2019. Accordingly, Debtor's plan is not feasible with the priority claims filed to date. 11 U.S.C. § 1325(a)(6).

The amended plan does not comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is confirmed.

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

The court will issue an order.

6. [22-90093](#)-B-13 JAMES RIDDLE
[RDG-1](#) Jason N. Vogelpohl

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
5-17-22 [[28](#)]

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 Debtor has not filed a certificate of completion from an approved nonprofit budget and credit counseling agency. The Debtor has not complied with 11 U.S.C. § 521(b)(1) and is not eligible for relief under the United States Bankruptcy Code pursuant to 11 U.S.C. § 190(h).

Second, Debtor's plan provides for attorney fees in the amount of \$4,466.64, of which \$466.64 was paid pre-petition, with the remaining \$4,000.00 to be paid through Debtor's plan. Dkt. 3. These figures contradict the figures in the Rights and Responsibilities and Disclosure of Compensation of Attorney for Debtor filed in Debtor's case, both of which state that \$4,000.00 in attorney's fees are being charges in connection with this case and that \$466.64 of this sum was paid pre-petition. Due to these discrepancies, Debtors' plan is not feasible. 11 U.S.C. § 1325(a)(6).

Third, Debtor's Schedule I lists non-Debtor income contributions of \$1,000.00. Debtor admitted at the meeting of creditors that his parents contribute \$1,000.00 to the household and have been contributing this amount for approximately two years. However, until Debtor's parents file a declaration attesting to their willingness and ability to contribute the \$1,000.00 for the duration of the plan term, it cannot be determined if Debtor's plan is feasible.

Fourth, Debtor's Form 122C-1 does not include the \$1,000.00 contribution from Debtor's parents, which Debtor has admitted has been continuing for the past two years. Dkt. 45-46. Until Debtor has filed an amended Form 122C-1 to accurately reflect all sources of income, it cannot be determined whether Debtor is paying all of his projected disposable income to his unsecured creditors under their plan in accordance with 11 U.S.C. § 1325(b).

Fifth, on May 17, 2022, the court heard and granted Debtor's motion to modify loan of real property. Dkt. 34. Debtor's plan provides for Rushmore Loan as a Class 1 claim with pre-petition arrears of \$1,001.40 and a post-petition mortgage payment of \$1,437.30 per month. Dkt. 3. The loan modification provides for a total post-petition mortgage payment of \$1,355.04. Dkt. 22. As Debtor's motion has been granted, Debtor must file an amended plan increasing disbursements to unsecured creditors.

Sixth, Debtor has submitted an incomplete copy of his 2021 Federal income tax returns. Until the Trustee is able to review a complete copy of Debtor's 2021 income tax return, it cannot be determined if Debtor's plan is feasible. 11 U.S.C. § 1325(a)(6).

Seventh, Debtor's plan proposes to reduce the secured claim of Lendmark Financial Service based on the value of its collateral. Dkt. 3. However, Debtor's Schedule D indicates that debt was incurred in June 2020. Dkt. 1. Lendmark Financial has filed a proof of claim indicating that the debt was incurred on June 5, 2020. As the debt was

not incurred greater than 910 days prior to Debtor's bankruptcy filing, the secured claim may not be reduced. With this misclassification, Debtor's plan is not feasible. 11 U.S.C. § 1325(a)(6).

Eighth, U.S. Department of Housing and Urban development has filed a proof of claim with a secured amount of \$18,884.08. However, Debtor's plan does not provide for this secured claim. Without providing for this claim, it cannot be determined whether debtor intends to pay this creditor. Whether this creditor is to be paid, and, if it is to be paid, how it is to be paid, impacts whether Debtor will be able to make all payments under the plan and comply with the plan. 11 U.S.C. § 1325(a)(6).

Ninth, the total monthly payments to secured creditors is \$2,307.30 without Trustee compensation and expense, and with current Trustee compensation and expense, total \$2,527.16 per month. Debtor's plan payment is only \$2,447.00 per month. Accordingly, Debtor's plan is not feasible. 11 U.S.C. § 1325(a)(6).

Tenth, Debtor's plan provides for OneMain Financial as a Class 2 claim in the amount of \$10,918.59 to be paid at 4% interest a monthly dividend of \$160.00. Dkt. 3. Accordingly, the plan will take approximately 78 months to pay this claim in full, which exceeds the maximum length of 60 months pursuant to 11 U.S.C. § 1322(d) and which results in a commitment period that exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4).

Eleventh, the Debtor has failed to provide evidence that the plan is mathematically feasible. The plan provides a monthly payment of \$2,447.00. Based on the claims that have been filed to date, the Debtor's monthly plan payment will need to be at least \$2,581.00 in order for the plan to be feasible. 11 U.S.C. § 1325(a)(6).

The plan filed March 25, 2022, 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.

7. [20-90195](#)-B-13 TONY ARELLANO
[TLC](#)-1 Tamie L. Cummins

MOTION TO MODIFY PLAN
4-15-22 [[22](#)]

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.

The Debtor's plan is not proposed in good faith under 11 U.S.C. § 1325(a)(3). When the case was filed, Debtor's Official Form 122C-1 showed that the current monthly income was over the median income and that the applicable commitment period in the case is 60 months. Dkt. 1. Debtor's currently confirmed plan has a 53 month plan term and provides for 100% to the general unsecured claims. Debtor's proposed plan term is only 53 months but only proposed to pay 87.98% to general unsecured claims. Debtor is required to remain in his plan for 60 months.

The Debtor filed a response to Trustee's Opposition, wherein the Debtor requests that the Trustee's issue with the plan be fixed in the order confirming the plan. However, the alteration that the Debtor proposes is a substantive change which is not appropriately made in the order confirming the Chapter 13 plan. Accordingly, the Debtor's motion to confirm is denied.

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.

8. [22-90095](#)-B-13 CHERYL PORTER OBJECTION TO CONFIRMATION OF
[Thru #9](#) SCHIMMELFENNIG PLAN BY THE BANK OF NEW YORK
Gordon G. Bones MELLON
5-13-22 [[14](#)]

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 overrule the objection as moot.

The court denied confirmation of Debtor's modified plan at Item #9, RDG-1. The plan filed March 26, 2022, does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

The plan filed March 26, 2022, 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 OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.

9. [22-90095](#)-B-13 CHERYL PORTER OBJECTION TO CONFIRMATION OF
[RDG-1](#) SCHIMMELFENNIG PLAN BY RUSSELL D. GREER
Gordon G. Bones 5-17-22 [[18](#)]

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). A 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, Debtor and Debtor's attorney appeared at the meeting of creditors, however Trustee was not able to examine Debtor, as it was noted that there was no Attorney Affidavit of Confirmation of Identity and Social Security Number of Debtors. Accordingly, that meeting has been continued to June 8, 2022 at 11:30 a.m. Until Trustee is able to examine Debtor, it cannot be determined if Debtor's plan has been proposed in good faith and complies with 11 U.S.C. § 1325.

Second, paragraph 3.05 of Debtor's plan provides that a total of \$4,500.00 is to be paid to Debtor's attorney. Dkt. 3. This exceeds the "no look" fee of \$4,000.00 provided for in the Guidelines for Payment of Attorney's Fees in Chapter 13 cases, for non-business cases. Accordingly, Debtor's attorney must seek separate court approval of those fees.

Third, Debtor's Disclosure of Compensation of Attorney for Debtor at Line 6 states that the agreed upon fee of \$4,500.00 does not include judicial lien avoidances and relief from stay actions. Dkt. 1. This is contradictory to the Rights and Responsibilities signed by Debtors and their attorney. Dkt. 5. These services are included in the "no look fee" and should not be excluded. The excluded services are also required to be included in the fee accepted for representation pursuant to Local Bankruptcy Rule 2017-1(a)(1).

Fourth, Debtor's plan at section 3.08 classifies Mr. Cooper as a Class 2 creditor in the amount of \$0.00 to be paid \$0.00. Dkt. 3. Debtor's Schedule H lists Peter J. Schimmelfennig as a co-Debtor and states that the co-Debtor will assume responsibility to pay the entire debt on the first given the Debtor's full disability as provided under Section 404.1560b. So this debt will remain outside of the plan as it is current now. Dkt. 1. Accordingly, the correct classification of Mr. Cooper in Debtor's plan should be as a Class 4 claim to be paid direct outside of the plan. With the misclassification of the claim, Debtor's plan is not feasible. 11 U.S.C. § 1325(a)(6).

Fifth, Debtor's plan classifies secured creditor Specialized Loan Service as a Class 2 creditor in the amount of \$128,036.00 to be paid 0% interest a monthly dividend of \$2,133.93. Dkt. 3. Debtor's plan payment in months 1 through 36 is only \$1,050.00 per month. Dkt. 3. Debtor's plan is not feasible. 11 U.S.C. § 1325(a)(6).

Sixth, the Trustee has requested a copy of Debtor's 2021 Federal and State income tax returns and documentation verifying Debtor's Social Security award. Until Trustee is able to review the requested documents, it cannot be determined whether Debtor's plan is feasible. 11 U.S.C. § 1325(a)(6).

Seventh, Debtor's plan is not proposed in good faith. Debtor's Schedules A/B list no personal and household items, including household goods and furnishings, electronics, clothing or jewelry. 11 U.S.C. § 1325(a)(3).

Eighth, Debtors' plan fails the liquidation test of 11 U.S.C. §1325(a)(4). Debtors' schedules list non-exempt assets totaling \$168,257.00, and unsecured priority claims totaling \$0.00. Accordingly, there are non-exempt assets available for distribution to Debtors' general unsecured creditors of \$168,257.00 (\$168,257.00 minus \$0.00). The Trustee estimates, based on a review and analysis of Debtors' schedules and claims filed to date, that Debtors have non-priority general unsecured claims totaling \$943.89. In order to meet the liquidation test of 11 U.S.C. §1325(a)(4), Debtors' plan must pay 100% plus interest at the Federal Judgement Rate of 1.02% to Debtors' general unsecured creditors. Debtors' plan pays only 4%, and accordingly, it fails the liquidation test.

The plan filed March 26, 2022, 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.

10. [22-90097](#)-B-13 SHANNON TOBIN RUCCELLO OBJECTION TO CONFIRMATION OF
[RDG-1](#) AND GREGORY RUCCELLO PLAN BY RUSSELL D. GREER
Seth L. Hanson 5-16-22 [[13](#)]

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, Debtors' Schedule I lists Debtor's employer as Amazon. Dkt. 1. The Debtor has admitted at her meeting of creditors that she is no longer employed at Amazon. Until Debtors file amended Schedules I and J, it cannot be determined whether Debtors' plan is feasible and pays all projected disposable income for the applicable commitment period to Debtors' general unsecured creditors. 11 U.S.C. §§ 1325(a)(6) and 1325(b)(1).

Second, Debtors' plan fails the liquidation test of 11 U.S.C. §1325(a)(4). Debtors' schedules list non-exempt assets totaling \$4,998.00, and unsecured priority claims totaling \$0.00. Accordingly, there are non-exempt assets available for distribution to Debtors' general unsecured creditors of \$4,988.00 (\$4,988.00 minus \$0.00). The Trustee estimates, based on a review and analysis of Debtors' schedules and claims filed to date, that Debtors have non-priority general unsecured claims totaling \$0.00. In order to meet the liquidation test of 11 U.S.C. §1325(a)(4), Debtors' plan must pay 100% plus Federal Judgement Rate of 1.55% (\$0.00 divided by \$4,988.00) to Debtors' general unsecured creditors. Debtors' plan pays only 0%, and accordingly, it fails the liquidation test.

Third, Debtors admitted at the meeting of creditors that they have not filed their 2020 federal and state tax returns. Until Debtors file those returns and Trustee is able to review those returns, it cannot be determined whether Debtors' plan is feasible.

The plan filed March 24, 2022, 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.

11. [21-90522](#)-B-13 KEVIN JORDAN
[RDG](#)-2 Shane Reich

CONTINUED MOTION TO DISMISS
CASE
5-13-22 [[33](#)]

Final Ruling

This matter was continued from May 31, 2021, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, June 3, 2021. Debtor filed a timely response and requests that the continued motion be continued. The Debtor has faced several challenges in filing and setting an amended plan and requests a short continuance to file and serve the new plan. Accordingly, the motion will be continued to **June 21, 2022, at 1:00 p.m.** However, if a plan and motion to confirm are not filed by June 21, 2022, then the continued motion to dismiss will be granted. This resolves the basis for dismissing the case at this time.

Therefore, the court's conditional ruling at dkt. 38 and the continued hearing on June 7, 2021, at 1:00 p.m. are vacated.

The motion is ORDERED CONTINUED to June 21, 2022, at 1:00 P.M. for reasons stated in the minutes.

The court will issue an order.