



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

Honorable Christopher M. Klein  
Bankruptcy Judge  
Sacramento, California

**June 10, 2025 at 1:30 p.m.**

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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/CourtAppearances>. 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.

**Unauthorized Recording is Prohibited:** Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued medical credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

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UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

June 10, 2025 at 1:30 p.m.

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1. [25-21106](#)-C-13 IGNACIO ROSALES MOTION TO CONFIRM PLAN  
[MRL](#)-1 Mikalah Liviakis 5-2-25 [[21](#)]

**Final Ruling:** No appearance at the June 10, 2025 hearing is required.  
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The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 39 days' notice was provided. Dkt. 25.

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 debtor filed this Motion seeking to confirm the Amended Chapter 13 Plan (Dkt. 24) filed on May 2, 2025.

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, Ignacio Guadalupe Rosales, 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. 24) meets the requirements of 11 U.S.C. §§ 1322 and 1325(a), and the plan

June 10, 2025 at 1:30 p.m.

is confirmed. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

2. [25-20024](#)-C-13 RHOEL COLOMA AND MAUREEN MOTION TO CONFIRM PLAN  
[CYB](#)-1 FLORES-COLOMA 4-24-25 [[43](#)]  
Candace Brooks

**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 47 days' notice was provided. Dkt. 48.

**The Motion to Confirm is denied.**

The debtors filed this Motion seeking to confirm the Chapter 13 Plan (Dkt. 45) filed on April 24, 2025.

The Chapter 13 Trustee filed an Opposition (Dkt. 56) on May 19, 2025, opposing confirmation on the following grounds:

1. Plan payments extend beyond 5 years;
2. Plan fails to provide for equal monthly payments to secured claims; and
3. The plan is not feasible

Secured Creditor, Real Time Resolutions, Inc., filed an Opposition (Dkt. 53) on May 9, 2025, opposing confirmation on the following grounds:

1. The plan is not feasible;
2. The plan proposes only three lump sum payments of \$15,000.00 a year and then a refinance; and
3. Creditor is not adequately protected.

**RESPONSE**

Debtors filed responses to the Chapter 13 Trustee (Dkt. 61) on May 30, 2025, and Real Time Resolutions (Dkt. 58) on May 19, 2025 with the following responses:

1. Debtors propose increasing the plan payments by \$168 per month;
2. Debtors are proposing "Ensminger terms or Provisions" for secured creditors class 1 claim, and assert that on, or before, April 2027 they will refinance to pay creditor in full;
3. Debtors believe their plan is feasible because they have the ability to provide for all contractual payments and can make the annual lump sum payments.

## DISCUSSION

The plan mathematically requires a higher payment than the amount proposed in the plan. Further, the annual lump sum amount is only speculative at this point because it relies on future income tax refunds, which may, or may not, actually occur.

The debtor has not demonstrated the plan is feasible because the plan terms require a higher payment than what is proposed and relies on speculative future tax refunds. 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 and 1325(a). 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 Confirm filed by the debtors, Rhoel Coloma and Maureen Flores-Coloma, 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.

3. [25-21427](#)-C-13 JOHN PEREIRA  
[LGT](#)-1 Pauldeep Bains

OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
5-16-25 [[15](#)]

**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 25 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 plan is not feasible.

**DISCUSSION**

The plan mathematically requires a payment of \$3,949.06 per month, which is greater than the proposed \$3,710.00 payment.

The debtor has not demonstrated the plan is feasible because the claims filed in the case are greater than scheduled. That is reason to deny confirmation. 11 U.S.C. § 1325(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.

4. [25-21155](#)-C-13 TIMOTHY/JILLIAN WINTERS CONTINUED OBJECTION TO  
[LGT](#)-1 Julius Cherry CONFIRMATION OF PLAN BY LILIAN  
G TSANG  
5-6-25 [[31](#)]

**Final Ruling:** No appearance at the June 10, 2025 hearing is required.  
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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. 33.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion.

**The Objection to Confirmation of Plan is overruled as moot.**

The Chapter 13 trustee filed this Objection To Confirmation on May 6, 2025. The prior hearing on May 28, 2025 was continued. Thereafter, the debtor filed an amended plan and corresponding Motion To Confirm, making this Objection moot. Dkt. 35, 37.

Therefore, the Objection is overruled.

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 overruled as moot.



**Final Ruling:** No appearance at the June 10, 2025 hearing is required.  
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The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 46 days' notice was provided. Dkt. 21.

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 debtor filed this Motion seeking to confirm the Amended Chapter 13 Plan (Dkt. 17) filed on April 25, 2025.

The Chapter 13 Trustee has withdrawn her opposition.

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, Sabina Zildzic, 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. 17) meets the requirements of 11 U.S.C. §§ 1322 and 1325(a), and the plan is confirmed. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

6. [25-21460](#)-C-13 KIMBERLY MIMS  
[LGT](#)-1 Colby LaVelle

OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
5-16-25 [[16](#)]

Thru #7

**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 25 days' notice was provided. Dkt. 18.

**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. Plan payments extend beyond 5 years;
2. The Meeting of Creditors has not concluded and debtor has failed to comply with her statutory requirements;
3. Additional documents are required; and
4. Amendments to Schedules are required.

**DISCUSSION**

The plan mathematically requires a payment of \$3,129.94 per month, which is greater than the proposed \$592.00 payment.

The debtor has not demonstrated the plan is feasible because the plan terms require a higher payment than what is proposed. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

Debtor appeared at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. Appearance is mandatory. See 11 U.S.C. § 343. The Chapter 13 Trustee has continued the Meeting to allow the debtor additional time to produce required documents. Attempting to confirm a plan before the Meeting has concluded and all required documents have been produced is reason to deny confirmation. See 11 U.S.C. § 521(a)(3). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

The debtor has not filed all required tax returns. 11 U.S.C. §§ 1308, 1325(a)(9). 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.

7. [25-21460](#)-C-13 KIMBERLY MIMS  
[RMP](#)-1 Colby LaVelle

OBJECTION TO CONFIRMATION OF  
PLAN BY PNC BANK NATIONAL  
ASSOCIATION  
5-22-25 [[19](#)]

**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. 23.

**The Objection to Confirmation of Plan is sustained.**

Creditor PNC Bank National Association ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that:

1. Plan fails to provide for Creditor's claim; and
2. Plan is not feasible.

**DISCUSSION**

The plan at Section 3.02 provides that Creditor's Proof of Claim, *and not the plan*, determines the amount and classification of a claim.

Notwithstanding whether the plan provides for the Creditor's claim as Creditor argues, the debtor has not carried his burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(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 Creditor PNC Bank National Association, 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.

**No 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 26 days' notice was provided. Dkt. 61.

**The Motion to Disgorge fees is xxxxxx.**

Debtor, Wanda Cooper, seeks an order cancelling agreement between debtor and debtor's former attorney, Timothy Walsh, and ordering Mr. Walsh to refund \$2,505.00, which represents fees paid by the debtor less the case filing fee.

Debtor asserts she initially retained her former attorney to file this Chapter 13 case, and made two prepetition payments on November 20, 2024 and December 2, 2024 that totaled \$2,538.00. Debtor represents that her former attorney failed to appear at the Meeting of Creditors and did not contact her after multiple attempts she made to contact her former attorney on the telephone and in person. Additionally, debtor contends that her former attorney failed to forward numerous documents to the Chapter 13 Trustee. Finally, debtor asserts there were multiple problems with petition filed by her former attorney, including not providing for debtor's secured creditors in the plan and incorrectly stating the amount paid to her former attorney.

**OPPOSITION**

Timothy Walsh, debtor's former attorney, filed an opposition to the motion on June 3, 2025. Dkt. 62. The opposition is as follows:

(1) Mr. Walsh charged substantially the same amount as debtor's current attorney and as permitted by the Local Rules;

(2) The motion does not take into consideration the efforts of Mr. Walsh, which included legal advice, legal evaluation, assurance and comfort, preparation of the original petition and plan, and protection from creditors;

(3) The failure to attend the initial Meeting of Creditors is conceded and Mr. Walsh agrees he did not earn the full amount of the total fees charged;

(4) Mr. Walsh asserts he missed the Meeting of Creditors because he was in the hospital following a total left hip replacement; and

(5) Mr. Walsh did provide substantial services to debtor.

Mr. Walsh seeks denial of the motion and an award of 75% of the attorney's fees.

## DISCUSSION

Pursuant to § 329(b), the Court may cancel an agreement for representation in a case under Title 11 between a debtor and attorney that was entered into one year before the filing of a case and order the return of any payment made under that agreement that exceeds the reasonable value of the services provided. 11 U.S.C. § 329(b).

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 Motion to Disgorge Fees filed by Wanda Cooper 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 **xxxxxxxxxx**

9. [25-20679](#)-C-13 CHANCHAI VUE  
[LGT](#)-1 Peter Cianchetta

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY LILIAN  
G. TSANG  
4-8-25 [[16](#)]

**Final Ruling:** No appearance at the June 10, 2025 hearing is required.  
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**The Objection to Confirmation is dismissed without  
prejudice.**

The trustee having filed an Ex Parte Motion to Dismiss the pending Objection on June 5, 2025, Dkt. 41; no prejudice to the responding party appearing by the dismissal of the Objection; The trustee having the right to request dismissal of the objection pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by debtor, Chanchai Vue; **the Ex Parte Motion is granted, the Trustee's Objection is dismissed without prejudice, the court removes this Objection from the calendar, and the Chapter 13 Plan filed on February 15, 2025, is confirmed.**

The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

10. [25-20881](#)-C-13 LATESHA WILLIAMS-FOREMAN MOTION TO INCUR DEBT  
[PSB](#)-3 Pauldeep Bains 5-21-25 [[31](#)]

**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 18 days' notice was provided. Dkt. 35.

**The Motion to Incur Debt is granted.**

Debtor, Latesha Williams-Foreman, filed this Motion seeking authority to incur debt to purchase a vehicle.

The proposed financing is in the principal amount of \$21,318.68, paid at 6.54% interest over a 72 month term. Monthly payments are proposed to be \$358.77.

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 Incur Debt filed by Latesha Williams-Foreman 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.



11. [25-21481](#)-C-13 MARLON HERNANDEZ  
[LGT](#)-1 Carl Gustafson

OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
5-16-25 [[20](#)]

**Final Ruling:** No appearance at the June 10, 2025 hearing is required.  
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The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 25 days' notice was provided. Dkt. 22.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion.

**The Objection to Confirmation of Plan is overruled as moot.**

The Chapter 13 trustee filed this Objection To Confirmation on May 16, 2025. Thereafter, the debtor filed an amended plan and corresponding Motion To Confirm, making this Objection moot. Dkt. 25 & 28.

Therefore, the Objection is overruled.

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 overruled as moot.

12. [25-20682](#)-C-13 JOSE SALGADO  
[KMG](#)-2 Peter Macaluso

OBJECTION TO CONFIRMATION OF  
PLAN BY NAVOLUTIONS, INC.,  
MATTHEW WHITE AND KRISTINE  
WHITE AND/OR OBJECTION TO  
HOMESTEAD EXEMPTION  
5-2-25 [[43](#)]

**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 39 days' notice was provided. Dkt. 45.

**The Objection to Confirmation of Plan is sustained.**

Creditors, Navolutions, Inc., Matthew White, and Kristine White, ("Creditors") oppose confirmation of the Chapter 13 plan on the basis that:

1. The plan undervalues the amount of debt owed to Creditors; and
2. Debtor cannot claim a homestead exemption under 11 U.S.C. § 522(p)

**DEBTOR'S OPPOSITION**

Debtor filed an Opposition on May 27, 2025. Dkt. 65. Debtor asserts he is paying the ongoing monthly mortgage amount, plus prepetition arrears, postpetition arrears, and attorney and trustee's fees.

Additionally, debtor concedes that 11 U.S.C. § 522(p) applies to the debtor's claimed homestead exemption and limits the exemption amount to \$215,000.00.

**DISCUSSION**

A debtor that obtains an interest within 1215 days preceding the petition in real property used as a residence is limited to an exemption in the amount of \$189,050 as of the filing of the petition, the amount increased to \$214,000 on April 1, 2025. Debtor concedes that the homestead exemption amount is limited pursuant to § 522(p).

The plan at Section 3.02 provides that Creditor's Proof of Claim, *and not the plan*, determines the amount and classification of a claim.

Notwithstanding whether the plan provides for the total amount of debt as Creditor argues, the debtor has not carried his burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(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 Navolutions, Inc., Matthew White, and Kristine White, 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.

13. [22-21394](#)-C-13 KATHY JONES  
[PGM](#)-1 Peter Macaluso

MOTION TO RECONSIDER DISMISSAL  
OF CASE AND/OR MOTION TO VACATE  
DISMISSAL OF CASE  
5-20-25 [[70](#)]

DEBTOR DISMISSED: 04/16/25

**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 21 days' notice was provided. Dkt. 74.

**The Motion to Vacate is granted, and the Order Dismissing Case (Dkt. 66) is vacated.**

Debtor, Kathy M. Jones, filed this Motion seeking to vacate this court's Order (Dkt. 66) dismissing the case for delinquent plan payments on the basis that debtor has now provided payment and is substantially current.

The court issued its Order dismissing the case after the Chapter 13 Trustee filed a notice of default and intent to dismiss case due to delinquency on March 6, 2025.

**APPLICABLE LAW**

Federal Rule of Civil Procedure Rule 60(b), as made applicable by Federal Rule of Bankruptcy Procedure 9024, governs the reconsideration of a judgment or order. Grounds for relief from a final judgment, order, or other proceeding are limited to:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

FED. R. CIV. P. 60(b). A Rule 60(b) motion may not be used as a substitute

for a timely appeal. *Latham v. Wells Fargo Bank, N.A.*, 987 F.2d 1199, 1203 (5th Cir. 1993). The court uses equitable principles when applying Rule 60(b). See 11 CHARLES ALAN WRIGHT ET AL., FEDERAL PRACTICE AND PROCEDURE § 2857 (3d ed. 1998). The so-called catch-all provision, Federal Rule of Civil Procedure 60(b)(6), is "a grand reservoir of equitable power to do justice in a particular case." *Uni-Rty Corp. V. Guangdong Bldg., Inc.*, 571 F. App'x 62, 65 (2d Cir. 2014) (citation omitted). While the other enumerated provisions of Rule 60(b) and Rule 60(b)(6) are mutually exclusive, relief under Rule 60(b)(6) may be granted in extraordinary circumstances. *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 863 & n.11 (1988).

A condition of granting relief under Rule 60(b) is that the requesting party show that there is a meritorious claim or defense. This does not require a showing that the moving party will or is likely to prevail in the underlying action. Rather, the party seeking the relief must allege enough facts that, if taken as true, allow the court to determine if it appears that such defense or claim could be meritorious. 12 JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE ¶¶ 60.24[1]-[2] (3d ed. 2010); see also *Falk v. Allen*, 739 F.2d 461, 463 (9th Cir. 1984).

Additionally, when reviewing a motion under Rule 60(b), courts consider three factors: "(1) whether the plaintiff will be prejudiced, (2) whether the defendant has a meritorious defense, and (3) whether culpable conduct of the defendant led to the default." *Falk*, 739 F.2d at 463 (citations omitted).

Another consideration is the importance of finality of judgments. The standard for determining whether a Rule 60(b)(1) motion is filed within a reasonable time is a case-by-case analysis. The analysis considers "the interest in finality, the reason for delay, the practical ability of the litigant to learn earlier of the grounds relied upon, and prejudice to other parties." *Gravatt v. Paul Revere Life Ins. Co.*, 101 F. App'x 194, 196 (9th Cir. 2004) (citations omitted); *Sallie Mae Servicing, LP v. Williams (In re Williams)*, 287 B.R. 787, 793 (B.A.P. 9th Cir. 2002) (citation omitted).

## **DISCUSSION**

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 Vacate filed by Kathy M. Jones 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, and the Order Dismissing Case (Dkt. 66) is vacated.

14. [25-21498](#)-C-13    STEPHEN/KENDRA YVONNE    OBJECTION TO CONFIRMATION OF  
[LGT](#)-1    PENNER    PLAN BY LILIAN G. TSANG  
Jasmin Nguyen    5-19-25 [[16](#)]

**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 22 days' notice was provided. Dkt. 18.

**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 misclassifies the claim of Americredit Financial dba GM Financial as a class 4 claim;
2. The plan is not feasible.

**DEBTORS' REPLY**

The debtor filed a reply on May 27, 2025. Dkt. 19. Debtors concede the plan is not confirmable and represents they will be filing an amended plan. A review of the docket does not show that an amended plan has yet been filed.

**DISCUSSION**

The plan at Section 3.02 provides that Creditor's Proof of Claim, *and not the plan*, determines the amount and classification of a claim.

Notwithstanding whether claim is correctly provided for in the plan, the debtor has not carried his burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

The debtor has not demonstrated the plan is feasible because the claims filed in the case are greater than scheduled. That is reason to deny confirmation. 11 U.S.C. § 1325(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.

15. [25-21358](#)-C-13 MARIA AZTIAZARAIN

ORDER TO SHOW CAUSE

6-5-25 [[42](#)]

DEBTOR DISMISSED: 06/02/25

**No Tentative Ruling:**

**The Order to Show Cause is ~~XXXXXXXXXX~~**

The court issued this Order To Show Cause because the debtor made inconsistent and contradictory statements under penalty of perjury regarding her monthly income on Schedules and Forms filed with the Court. Dkt. 42.

Additionally, the debtor's case history show she previously filed a chapter 13 case in 2019. In that case, the chapter 13 Trustee objected to confirmation of the debtor's proposed plan and found the debtor had non-exempt assets totaling approximately \$1,754,000 and none of it was to be paid to unsecured creditors under the proposed plan.

The debtor was ordered to show cause why the case should not continue to be dismissed, or the order dismissing the case vacated and the case converted to one under chapter 7 because of the contradictory statements made under penalty of perjury.

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 Order to Show Cause 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 Order to Show Cause ~~XXXXXXXXXX~~



DEBTOR DISMISSED: 06/02/25

**No Tentative Ruling:**

The Court set these matters for hearing after the debtor filed emergency motion for reconsideration and a motion to vacate dismissal.

**The Motions are ~~xxxxxxxxxx~~**

Debtor, Maria Aztiazarain, filed the Motion seeking to vacate this court's Order (Dkt. 33) dismissing the case and for reconsideration of the denial of Application for Waiver of the Amendment Fee (Dkt. 28) on the basis that a fee was not due when she amended her Verification and Master Address List.

The court issued its Order dismissing the case after an Order to Show Cause ("OSC") was issued for failure to pay a \$34 fee for amending the Verification and Master Address List and the debtor failed to appear at the hearing on the OSC. At the hearing on the OSC, counsel for the Chapter 13 Trustee represented that the debtor had failed to make the first two plan payments to the Trustee under 11 U.S.C. § 1326(a)(1)(C). The Court determined that the debtor was not fulfilling her duties under the Code and dismissed the case.

**APPLICABLE LAW**

Federal Rule of Civil Procedure Rule 60(b), as made applicable by Federal Rule of Bankruptcy Procedure 9024, governs the reconsideration of a judgment or order. Grounds for relief from a final judgment, order, or other proceeding are limited to:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

FED. R. CIV. P. 60(b). A Rule 60(b) motion may not be used as a substitute for a timely appeal. *Latham v. Wells Fargo Bank, N.A.*, 987 F.2d 1199, 1203 (5th Cir. 1993). The court uses equitable principles when applying Rule 60(b). See 11 CHARLES ALAN WRIGHT ET AL., FEDERAL PRACTICE AND PROCEDURE § 2857 (3d ed. 1998). The so-called catch-all provision, Federal Rule of Civil Procedure 60(b)(6), is "a grand reservoir of equitable power to do justice in a particular case." *Uni-Rty Corp. V. Guangdong Bldg., Inc.*, 571 F. App'x 62, 65 (2d Cir. 2014) (citation omitted). While the other enumerated provisions of Rule 60(b) and Rule 60(b)(6) are mutually exclusive, relief under Rule 60(b)(6) may be granted in extraordinary circumstances. *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 863 & n.11 (1988).

A condition of granting relief under Rule 60(b) is that the requesting party show that there is a meritorious claim or defense. This does not require a showing that the moving party will or is likely to prevail in the underlying action. Rather, the party seeking the relief must allege enough facts that, if taken as true, allow the court to determine if it appears that such defense or claim could be meritorious. 12 JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE ¶¶ 60.24[1]-[2] (3d ed. 2010); see also *Falk v. Allen*, 739 F.2d 461, 463 (9th Cir. 1984).

Additionally, when reviewing a motion under Rule 60(b), courts consider three factors: "(1) whether the plaintiff will be prejudiced, (2) whether the defendant has a meritorious defense, and (3) whether culpable conduct of the defendant led to the default." *Falk*, 739 F.2d at 463 (citations omitted).

Another consideration is the importance of finality of judgments. The standard for determining whether a Rule 60(b)(1) motion is filed within a reasonable time is a case-by-case analysis. The analysis considers "the interest in finality, the reason for delay, the practical ability of the litigant to learn earlier of the grounds relied upon, and prejudice to other parties." *Gravatt v. Paul Revere Life Ins. Co.*, 101 F. App'x 194, 196 (9th Cir. 2004) (citations omitted); *Sallie Mae Servicing, LP v. Williams (In re Williams)*, 287 B.R. 787, 793 (B.A.P. 9th Cir. 2002) (citation omitted).

## DISCUSSION

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 Motion to Vacate filed by Maria Aztiazarain 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 **xxxxxxxxxx**