



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

Chief Judge Fredrick E. Clement
Sacramento Federal Courthouse
501 I Street, 7th Floor
Courtroom 28, Department A
Sacramento, California

DAY: TUESDAY
DATE: JUNE 10, 2025
CALENDAR: 9:00 A.M. CHAPTER 13 CASES

Unless otherwise ordered, all matters before Chief Judge Fredrick E. Clement shall be simultaneously: (1) **IN PERSON** at Sacramento Courtroom No. 28, (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 **Court 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 the 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:

- Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
- Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
- 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 media 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.

PRE-HEARING DISPOSITION INSTRUCTIONS

RULINGS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling.

"No Ruling" means the likely disposition of the matter will not be disclosed in advance of the hearing. The matter will be called; parties wishing to be heard should rise and be heard.

"Tentative Ruling" means the likely disposition, and the reasons therefor, are set forth herein. The matter will be called. Aggrieved parties or parties for whom written opposition was not required should rise and be heard. Parties favored by the tentative ruling need not appear. However, non-appearing parties are advised that the court may adopt a ruling other than that set forth herein without further hearing or notice.

"Final Ruling" means that the matter will be resolved in the manner, and for the reasons, indicated below. The matter will not be called; parties and/or counsel need not appear and will not be heard on the matter.

CHANGES TO PREVIOUSLY PUBLISHED RULINGS

On occasion, the court will change its intended ruling on some of the matters to be called and will republish its rulings. The parties and counsel are advised to recheck the posted rulings after 3:00 p.m. on the next business day prior to the hearing. Any such changed ruling will be preceded by the following bold face text: **"[Since posting its original rulings, the court has changed its intended ruling on this matter]"**.

ERRORS IN RULINGS

Clerical errors of an insignificant nature, e.g., nomenclature ("2017 Honda Accord," rather than "2016 Honda Accord"), amounts, ("\$880," not "\$808"), may be corrected in (1) tentative rulings by appearance at the hearing; or (2) final rulings by appropriate ex parte application. Fed. R. Civ. P. 60(a) *incorporated by* Fed. R. Bankr. P. 9024. All other errors, including those occasioned by mistake, inadvertence, surprise, or excusable neglect, must be corrected by noticed motion. Fed. R. Bankr. P. 60(b), *incorporated by* Fed. R. Bankr. P. 9023.

1. [23-23300](#)-A-13 **IN RE: ANDREW/JENNETTE FRAZIER**
[MRL-3](#)

MOTION TO MODIFY PLAN
4-16-2025 [\[66\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by movant, approved by the trustee

Subject: Amended Chapter 13 Plan, filed April 16, 2025

DEFAULT OF RESPONDENT

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtor(s) seek approval of the proposed modified Chapter 13 Plan. The plan is supported by Schedules I and J filed on February 3, 2025, ECF No. 45. The Chapter 13 trustee originally filed opposition to the motion stating there was a delinquency, ECF No. 70. However, the Chapter 13 trustee has since filed a status report stating the delinquency has been cured and that there is no longer opposition to the motion, ECF No. 76.

CHAPTER 13 PLAN MODIFICATION

Chapter 13 plan modification is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

Chapter 13 debtors seeking plan modification have the burden of proving that all requirements of § 1322(a) and (b) and § 1325(a) have been met. See 11 U.S.C. §§ 1322(a)-(b), 1325(a), 1329(b)(1); see also *In re Powers*, 202 B.R. at 622 ("[Section] 1329(b)(1) protects the parties from unwarranted modification motions by ensuring that the proposed modifications satisfy the same standards as required of the initial plan."); see also *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994); *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995).

The court finds that the debtor has sustained this burden of proof. The court will grant the motion and approve the modification.

2. [25-20806](#)-A-13 **IN RE: LARRY TRIHUB**
[SLG-1](#)

MOTION TO CONFIRM PLAN
4-21-2025 [\[21\]](#)

JOSHUA STERNBERG/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Motion to Confirm Plan

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Denied without prejudice

Order: Civil minute order

Debtor seeks an order confirming the Amended Chapter 13 Plan. For the following reasons the motion will be denied without prejudice.

NOTICE

All creditors and parties in interest have not received the notice required by Federal Rule of Bankruptcy Procedure 2002(b). The certificate of service shows that several creditors or parties in interest have not received notice or have not received notice at the correct address.

(a) 21-Day Notices to the Debtor, Trustee, Creditors, and Indenture Trustees. Except as (h), (i), (l), (p), and (q) provide otherwise, the clerk or the court's designee must give the debtor, the trustee, *all creditors*, and all indenture trustees at least 21 days' notice by mail of:

(9) the time to object to confirming a Chapter 13 plan.

Fed. R. Bankr. P. 2002(a)(9) (emphasis added).

The Certificate of Service does not show that any creditors were served. The Attachment 6B(s) was not attached to the certificate of service. *See*, Certificate of Service, ECF No. 39. Thus, the court will not determine if creditors were properly noticed. The court will deny the motion without prejudice.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Debtor's motion to confirm a plan has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.

3. [25-20207](#)-A-13 **IN RE: JORDAN/HAYLEY LANGLITZ**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
2-26-2025 [\[14\]](#)

MIKALAH LIVIAKIS/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: Continued from March 25, 2025

Disposition: Overruled

Order: Civil minute order

The hearing on the Chapter 13 trustee's objection to confirmation was continued to allow the parties to augment the evidentiary record. The debtor(s) filed opposition as ordered and the trustee filed a reply.

CONFIRMATION

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The trustee indicates in his reply that the issues raised in the objection to confirmation have been resolved with the debtor's filing their tax returns and providing the trustee filed amended Schedules I and J. He also states the plan payments are current. Reply, ECF No. 25. Finally, the trustee requests that his objection be overruled.

Accordingly, the court will overrule the objection. The debtor(s) shall submit an order confirming the plan which has been approved by the Chapter 13 trustee.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The chapter 13 trustee's objection to confirmation has been presented to the court. Having considered the objection,

oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is overruled.

4. [24-24010](#)-A-13 **IN RE: DENNIS POTOCZNY**
[SMJ-2](#)

MOTION TO MODIFY PLAN
4-22-2025 [\[49\]](#)

SCOTT JOHNSON/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

5. [24-25113](#)-A-13 **IN RE: JASON PEREZ AND JENNIFER BECERRA**
[HLG-3](#)

MOTION TO CONFIRM PLAN
4-25-2025 [\[43\]](#)

KRISTY HERNANDEZ/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied

Order: Civil minute order

The motion requests confirmation of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1)-(2). The Chapter 13 trustee opposes the motion, objecting to confirmation.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

Schedules I and J

The debtor has not supported the plan by filing recently amended Schedules I and J. The most recently filed budget schedules were filed on November 12, 2024, nearly 7 months ago, ECF No. 1. Without current income and expense information the court and the chapter 13 trustee are unable to determine whether the plan is feasible or

whether the plan has been proposed in good faith. See 11 U.S.C. § 1325(a)(3), (6).

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The chapter 13 trustee's objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses, and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained. The court denies confirmation of the chapter 13 plan.

6. [25-20016](#)-A-13 **IN RE: MATTHEW MCCANDLESS**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
2-26-2025 [\[40\]](#)

PETER MACALUSO/ATTY. FOR DBT.
DEBTOR DISMISSED: 04/30/25

Final Ruling

This case was dismissed on April 30, 2025. Accordingly, the objection will be removed from the calendar as moot. No appearances are required.

7. [25-20016](#)-A-13 **IN RE: MATTHEW MCCANDLESS**
[EAT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY WELLS FARGO
BANK, N.A.
1-29-2025 [\[17\]](#)

PETER MACALUSO/ATTY. FOR DBT.
CASSANDRA RICHEY/ATTY. FOR MV.
DEBTOR DISMISSED: 04/30/25

Final Ruling

This case was dismissed on April 30, 2025. Accordingly, the objection will be removed from the calendar as moot. No appearances are required.

8. [25-20319](#)-A-13 **IN RE: AARON BATE**
[DPC-2](#)

CONTINUED MOTION TO DISMISS CASE
4-15-2025 [\[24\]](#)

PETER MACALUSO/ATTY. FOR DBT.

Final Ruling

Motion: Dismiss Case

Notice: Continued from May 13, 2025

Disposition: Denied

Order: Civil minute order

The hearing on this motion was continued from May 13, 2025, to allow for hearing on the debtor's motion to confirm the chapter 13 plan. The motion to confirm, PGM-1, has been granted.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having considered the motion, the opposition, responses, and good cause appearing,

IT IS ORDERED that the motion is denied.

9. [25-20319](#)-A-13 **IN RE: AARON BATE**
[PGM-1](#)

MOTION TO CONFIRM PLAN
4-29-2025 [\[29\]](#)

PETER MACALUSO/ATTY. FOR DBT.
TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the movant, approved by the trustee

Subject: First Amended Chapter 13 Plan, filed April 29, 2025

DEFAULT OF RESPONDENT

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtor seeks confirmation of the First Amended Chapter 13 Plan, ECF No. 31. The plan is supported by Schedules I and J filed April 29, 2025. ECF No. 34. The Chapter 13 trustee has filed a non-opposition to the motion, ECF No. 41.

CHAPTER 13 PLAN CONFIRMATION

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

10. [24-24523](#)-A-13 **IN RE: AMBER BARBOSA-CUSPARD**
[PGM-1](#)

CONTINUED MOTION TO CONFIRM PLAN
4-1-2025 [\[34\]](#)

PETER MACALUSO/ATTY. FOR DBT.

Final Ruling

An Order Confirming Plan was filed on May 24, 2025, ECF No. 56. Accordingly, the motion will be removed from the calendar as moot. No appearances are required.

11. [21-20025](#)-A-13 **IN RE: HAROLD DEAN**
[DPC-2](#)

CONTINUED MOTION TO DISMISS CASE
4-16-2025 [\[93\]](#)

LUCAS GARCIA/ATTY. FOR DBT.

No Ruling

12. [24-20427](#)-A-13 **IN RE: AILEEN GANO SOMERVILLE**
[BLG-2](#)

MOTION TO MODIFY PLAN
4-22-2025 [\[29\]](#)

CHAD JOHNSON/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by movant, approved by the trustee

Subject: Amended Chapter 13 Plan, filed April 22, 2025

DEFAULT OF RESPONDENT

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. TeleVideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtor(s) seek approval of the proposed modified Chapter 13 Plan. The plan is supported by Schedules I and J filed on February 20, 2025, ECF No. 26.

The Chapter 13 trustee has filed an opposition to the motion stating that the Schedules I and J were not properly served, ECF No. 35. The court will not deny the motion on this basis as registered e-filers receive notice of the filing from the clerk of court. Since this was the trustee's only basis for the opposition, the motion will be granted.

CHAPTER 13 PLAN MODIFICATION

Chapter 13 plan modification is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

Chapter 13 debtors seeking plan modification have the burden of proving that all requirements of § 1322(a) and (b) and § 1325(a) have been met. See 11 U.S.C. §§ 1322(a)-(b), 1325(a), 1329(b)(1); see also *In re Powers*, 202 B.R. at 622 ("[Section] 1329(b)(1) protects the parties from unwarranted modification motions by ensuring that the proposed modifications satisfy the same standards as required of the initial plan."); see also *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994); *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995).

The court finds that the debtor has sustained this burden of proof. The court will grant the motion and approve the modification.

13. [25-21731](#)-A-13 **IN RE: GEORGENIA MCCALL**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
5-21-2025 [\[12\]](#)

JOSHUA STERNBERG/ATTY. FOR DBT.

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to September 9, 2025, at 9:00 a.m.

Order: Civil minute order

The Chapter 13 trustee objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to September 9, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than July 1, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the Chapter 13 trustee's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagree with the trustee's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order,

then the trustee shall file and serve a reply, if any, no later than August 19, 2025. The evidentiary record will close after August 19, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that if the parties resolve the trustee's objection, and there are no additional objections to confirmation pending, then the debtor(s) may submit an order confirming the plan which has been signed by the Chapter 13 trustee. The trustee's signature on the order confirming plan represents to the court that no further objections to confirmation of the proposed plan are pending.

14. [25-20533](#)-A-13 **IN RE: ANTONIO SECADA**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
5-12-2025 [\[50\]](#)

DEBTOR DISMISSED: 05/18/25

Final Ruling

This case was dismissed on May 18, 2025, the order to show cause is discharged as moot.

15. [25-20134](#)-A-13 **IN RE: BRIAN FOUST**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
3-4-2025 [\[17\]](#)

DEBTOR DISMISSED: 04/16/25

Final Ruling

This case was dismissed on April 16, 2025. Accordingly, the objection will be removed from the calendar as moot. No appearances are required.

16. [25-20134](#)-A-13 **IN RE: BRIAN FOUST**
[JCW-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY BRIDGECREST
CREDIT COMPANY, LLC
3-6-2025 [\[25\]](#)

JENNIFER WONG/ATTY. FOR MV.
DEBTOR DISMISSED: 04/16/25

Final Ruling

This case was dismissed on April 16, 2025. Accordingly, the objection will be removed from the calendar as moot. No appearances are required.

17. [25-20134](#)-A-13 **IN RE: BRIAN FOUST**
[KMM-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY CITIBANK,
N.A.
3-5-2025 [\[21\]](#)

KIRSTEN MARTINEZ/ATTY. FOR MV.
DEBTOR DISMISSED: 04/16/25

Final Ruling

This case was dismissed on April 16, 2025. Accordingly, the objection will be removed from the calendar as moot. No appearances are required.

18. [25-20140](#)-A-13 **IN RE: KAREN JOHNSON**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
3-3-2025 [\[31\]](#)

DAVID FOYIL/ATTY. FOR DBT.
DEBTOR DISMISSED: 04/16/25

Final Ruling

This case was dismissed on April 16, 2025. Accordingly, the objection will be removed from the calendar as moot. No appearances are required.

19. [25-20140](#)-A-13 **IN RE: KAREN JOHNSON**
[FWP-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY JOSEPH J.
BAMBINO, TRUSTEE OF THE BAMBINO FAMILY TRUST
3-6-2025 [\[39\]](#)

DAVID FOYIL/ATTY. FOR DBT.
THOMAS PHINNEY/ATTY. FOR MV.
DEBTOR DISMISSED: 04/16/25

Final Ruling

This case was dismissed on April 16, 2025. Accordingly, the objection will be removed from the calendar as moot. No appearances are required.

20. [24-23546](#)-A-13 **IN RE: MICHAEL MCGEE**
[GC-2](#)

MOTION FOR COMPENSATION FOR GERALD GLAZER, DEBTORS
ATTORNEY(S)
4-23-2025 [\[68\]](#)

JULIUS CHERRY/ATTY. FOR DBT.
RESPONSIVE PLEADING

Final Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Continued to June 24, 2025, at 9:00 a.m.

Order: Civil minute order

This matter is continued to allow the movant to augment the record. Here, debtor's counsel has applied for an allowance of compensation and reimbursement of expenses. There are two problems. First, the motion does not specify whether the movant seek interim or final compensation. Second, Exhibit D, which memorializes the time expended has not been authenticated. Ex. D Support Motion, ECF No. 70. The declaration of Glazer does not indicate that Exhibit D is authentic. Glazer decl., ECF No. 71. Additionally, the declaration needs to indicate whether the time records were contemporaneously kept or are created, but representing a reasonable approximation of actual time spent. Fed. R. Evid. 901. The court will continue the matter to allow counsel to file a declaration authenticating Exhibit D.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the motion is continued to June 24, 2025, at 9:00 a.m.

No later than June 17, 2025, movant may file a declaration authenticating Exhibit D, ECF No. 70, or a declaration augmenting the record.

21. [24-23447](#)-A-13 **IN RE: STEPHANIE CHITWOOD**
[DPC-2](#)

CONTINUED MOTION TO DISMISS CASE
3-17-2025 [\[58\]](#)

EVAN LIVINGSTONE/ATTY. FOR DBT.

No Ruling

22. [24-23447](#)-A-13 **IN RE: STEPHANIE CHITWOOD**
[FEC-1](#)

ORDER TO SHOW CAUSE
4-24-2025 [\[75\]](#)

EVAN LIVINGSTONE/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

23. [25-20247](#)-A-13 **IN RE: KRYSTINE/ERIC FERRIS**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
3-5-2025 [\[30\]](#)

MICHAEL HAYS/ATTY. FOR DBT.

Final Ruling

Objection: Objection to Chapter 13 Plan Confirmation/Modification
Notice: Continued from March 25, 2025; written opposition required
Disposition: Sustained
Order: Civil minute order

This is an objection to confirmation of the debtor's Chapter 13 plan. Written opposition to this motion was required. None has been filed. Any opposition to the relief sought has been waived. See *id.* ("Failure of the responding party to timely file written opposition may be deemed a waiver of any opposition to the granting of the motion or may result in the imposition of sanctions.").

CHAPTER 13 PLAN CONFIRMATION

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. Modified Chapter 13 plans are subject to additional scrutiny. 11 U.S.C. § 1329; Fed. R. Bankr. P. 3015(h). The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994). Here, the debtor(s) has not sustained its burden. The Chapter 13 trustee and/or a creditor objected to plan confirmation. Because that objection was set under LBR 9014-1(f)(2), no written response was required. This court continued this matter and required the debtor to do one of the following: (1) file a statement of non-opposition to the objection; (2) filing a written response to the objection; or (3) file, set, and serve a modified plan. The debtor has not responded to this court's order. As a consequence, the debtor(s)' default is entered, and the objection is sustained.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Chapter 13 trustee's objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained. The court denies confirmation of the chapter 13 plan.

24. [25-20247](#)-A-13 **IN RE: KRYSTINE/ERIC FERRIS**
[SKI-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TD BANK, N.A.
2-27-2025 [\[25\]](#)

MICHAEL HAYS/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.

Final Ruling

Objection: Chapter 13 Plan Confirmation/Modification
Notice: Continued from March 25, 2025; written opposition required
Disposition: Sustained
Order: Civil minute order

This is an objection to confirmation of the debtor's Chapter 13 plan. Written opposition to this motion was required. None has

been filed. Any opposition to the relief sought has been waived. See *id.* ("Failure of the responding party to timely file written opposition may be deemed a waiver of any opposition to the granting of the motion or may result in the imposition of sanctions.").

CHAPTER 13 PLAN CONFIRMATION

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. Modified Chapter 13 plans are subject to additional scrutiny. 11 U.S.C. § 1329; Fed. R. Bankr. P. 3015(h). The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994). Here, the debtor(s) has not sustained its burden. The Chapter 13 trustee and/or a creditor objected to plan confirmation. Because that objection was set under LBR 9014-1(f)(2), no written response was required. This court continued this matter and required the debtor to do one of the following: (1) file a statement of non-opposition to the objection; (2) filing a written response to the objection; or (3) file, set, and serve a modified plan. The debtor has not responded to this court's order. As a consequence, the debtor(s)' default is entered, and the objection is sustained.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

Creditor's objection to confirmation has been presented to the court. Having considered the objection, oppositions, responses and replies, if any, and having heard oral argument presented at the hearing,

IT IS ORDERED that the objection is sustained. The court denies confirmation of the chapter 13 plan.

25. [25-21750](#)-A-13 **IN RE: TONY GUDINO**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
5-21-2025 [\[15\]](#)

NICHOLAS WAJDA/ATTY. FOR DBT.

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to September 9, 2025, at 9:00 a.m.

Order: Civil minute order

The Chapter 13 trustee objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to September 9, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than July 1, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the Chapter 13 trustee's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagree with the trustee's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order,

then the trustee shall file and serve a reply, if any, no later than August 19, 2025. The evidentiary record will close after August 19, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that if the parties resolve the trustee's objection, and there are no additional objections to confirmation pending, then the debtor(s) may submit an order confirming the plan which has been signed by the Chapter 13 trustee. The trustee's signature on the order confirming plan represents to the court that no further objections to confirmation of the proposed plan are pending.

26. [25-21153](#)-A-13 **IN RE: ROBYN JUUL**
[CRG-1](#)

MOTION TO CONFIRM PLAN
4-28-2025 [\[19\]](#)

CARL GUSTAFSON/ATTY. FOR DBT.
TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by the movant, approved by the trustee

Subject: Amended Chapter 13 Plan, filed April 28, 2025

DEFAULT OF RESPONDENT

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. TeleVideo Sys., Inc. v. Heidenthal, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtor seeks confirmation of the Amended Chapter 13 Plan, ECF No. 22. The plan is supported by Schedules I and J filed March 14, 2024, ECF No. 1. The Chapter 13 trustee has filed a non-opposition to the motion, ECF No. 31.

CHAPTER 13 PLAN CONFIRMATION

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court finds that the debtor has sustained that burden, and the court will approve confirmation of the plan.

27. [25-20057](#)-A-13 **IN RE: STEVEN BUSHER**
[TAA-1](#)

MOTION TO CONFIRM PLAN
4-17-2025 [\[25\]](#)

KEVIN TANG/ATTY. FOR DBT.
RESPONSIVE PLEADING

Tentative Ruling

Motion: Confirm Chapter 13 Plan

Notice: LBR 3015-1(d)(1), 9014-1(f)(1); written opposition filed by the trustee

Disposition: Denied

Order: Civil minute order

The motion requests confirmation of the Chapter 13 plan in this case. See 11 U.S.C. §§ 1322, 1323, 1325; Fed. R. Bankr. P. 2002(b); LBR 3015-1(d)(1)-(2). The Chapter 13 trustee opposes the motion, objecting to confirmation.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

PLAN FEASIBILITY

The proposed plan must be feasible. 11 U.S.C. § 1325(a)(6). Feasibility is a "factual determination" as to the plan's "reasonable likelihood of success." *First Nat'l Bank of Boston v. Fantasia (In re Fantasia)*, 211 B.R. 420, 423 (B.A.P. 1st Cir. 1997). The bankruptcy court needs to "be satisfied that the debtor has the present as well as the future financial capacity to comply with the terms of the plan." *Id.* As one court summarized feasibility, "Thus, a plan is not feasible and is not confirmable if a debtor's income will not support the plan's proposed payments. *In re Barnes*, 275 B.R. 889, 894 (Bankr. E.D. Cal.2002) ("[T]he debtors showed no disposable income with which to fund a plan.... [T]he debtors have

been unable to actually pay the amount projected ... to the trustee."); *In re Bernardes*, 267 B.R. 690, 695 (Bankr. D.N.J. 2001) ("While the feasibility requirement is not rigorous ... the plan proponent must, at minimum, demonstrate that the Debtor's income exceeds expenses by an amount sufficient to make the payments proposed by the plan."); *In re Wilkinson*, 99 B.R. 366, 369 (Bankr. N.D. Ohio 1989) ("[D]ebtors will not be able to comply with the plan and make all payments thereunder."). *In re Buccolo*, 397 B.R. 527, 530 (Bankr. D.N.J. 2008), *aff'd*, 2009 WL 2132435 (D.N.J. July 13, 2009).

Plan Delinquency

The trustee indicates that the plan payments are delinquent in the amount of \$61.12. The plan cannot be confirmed if the plan payments are not current.

SECURED DEBT

11 U. S. C. § 1325(a)(5)(B)(ii): Improper Classification of Secured Claim

The Chapter 13 trustee objects to confirmation, contending that as residential home mortgage payments were delinquent on the date of the petition that classification of that claim in Class 4 (direct payment) is improper.

Section 1325(a)(5) prescribes the treatment of an allowed secured claim provided for by the plan. This treatment must satisfy one of three alternatives described in paragraph (5) of § 1325(a). In summary, these mandatory alternatives are: (1) the secured claim holder's acceptance of the plan; (2) the plan's providing for both (a) lien retention by the secured claim holder and (b) payment distributions on account of the secured claim having a present value "not less than the allowed amount of such claim"; or (3) the plan's providing for surrender of the collateral to the secured claim holder. See 11 U.S.C. § 1325(a)(5).

In most instances, the validity and amount of a secured debt is determined by state, not federal, law. 11 U.S.C. § 502(b)(1), §1322(e) ("the amount necessary to cure the default, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law"). Where, as here, the claim arises from a secured claim against the debtor's residence the "allowed amount of the secured claim" will be determined by the underlying note and deed of trust. A creditor expresses that "allowed amount" by filing a Proof of Claim; absent objection, the amount stated in the Proof of Claim, including the amount of the ongoing mortgage payment and any arrearage, is "deemed" allowed. 11 U.S.C. § 502(a).

Here, the plan places the secured creditor's claim in Class 4, yet the claim is in default and includes a pre-petition arrearage in the amount of \$39,035.94. Compare Claim No. 4-2 (reflecting delinquency) with 11 U.S.C. 502(a) (deemed allowance).

Two principles control this analysis. First, Chapter 13 debtors do not have an absolute right to make payments to unimpaired claims directly to the creditor effected. *In re Giesbrecht*, 429 B.R. 682, 685-86 (B.A.P. 9th Cir. 2010); *Cohen v. Lopez (In re Lopez)*, 372 B.R. 40 (9th Cir. BAP 2007), *aff'd*, and adopted by *Cohen v. Lopez (In re Lopez)*, 550 F.3d 1202 (9th Cir.2008) ("a debtor has no absolute right to make such [direct] payments"). The decision to allow, or to not allow, a Chapter 13 payments directly has always been discretionary. *Giesbrecht*, 429 B.R. at 690.

Thus, bankruptcy courts have been afforded the discretion to make the determination of when direct payments may or may not be appropriate based upon the confirmation requirements of § 1325, policy reasons, and the factors set forth by case law, local rules or guidelines. *Lopez*, 372 B.R. at 46-47 ("Reflecting the discretion granted by the Code, different courts and different circuits have different rules on the permissibility of direct payment, a fact unchanged by or since [*Fulkrod v. Barmettler (In re Fulkrod)*, 126 B.R. 584 (9th Cir. BAP 1991) *aff'd sub. nom.*, *Fulkrod v. Savage (In re Fulkrod)*, 973 F.2d 801 (9th Cir.1992)].")

In re Giesbrecht, 429 B.R. at 690 (emphasis added).

Second, at least where a residential mortgage is delinquent on the petition date, merely providing in the plan that the debtor will pay the claim directly does not satisfy § 1325(a)(5). As Judge Lundin commented:

A bald statement that a creditor will be dealt with "outside the plan" fails to satisfy any of the statutory ways in which the Chapter 13 plan can provide for an allowed secured claim under 11 U.S.C. § 1325(a)(5)-- unless the creditor "accepts" being "outside" for whatever it might mean. "Outside" does not preserve the lien of the affected creditor and does not guarantee present value of collateral--rights the secured creditor otherwise has at confirmation under § 1325(a)(5). Placing a secured claim "outside the plan" cannot rescue confirmation of a plan that does not satisfy the confirmation tests for treatment of secured claims.

Keith M. Lundin, *Lundin On Chapter 13*, § 74.8, at ¶ 5.

Argument might be interposed to distinguish the classification problem described by Judge Lundin with respect to § 1325(a)(5) where the residential mortgage is not delinquent on the petition date because as a matter of law those mortgages cannot be modified. 11 U.S.C. § 1322(b)(2), (b)(5), (c)(2) (prohibiting a debtor from modifying a deed of trust applicable to their principal residence, except to cure a delinquency or extending the "last original payment schedule" to a date not later than plan completion).

Moreover, the mandatory form plan in the Eastern District of California Bankruptcy Court specifically contemplates and addresses this eventuality. LBR 3015-1(a). It provides:

Class 1 includes all delinquent secured claims that mature after the completion of this plan, including those secured by Debtor's principal residence.

(a) Cure of defaults. *All arrears on Class 1 claims shall be paid in full by Trustee. The equal monthly installment specified in the table below as the Arrearage dividend shall pay the arrears in full.*

...

(b) Maintaining payments. *Trustee shall maintain all post-petition monthly payments to the holder of each Class 1 claim whether or not this plan is confirmed or a proof of claim is filed.*

Chapter 13 Plan § 3.07, EDC 3-080.

In contrast, Class 4 of the plan for the Eastern District of California contemplates a debtor whose mortgage is fully current on the date the case is filed. It provides:

Class 4 includes all secured claims paid directly by Debtor or third party. Class 4 claims mature after the completion of this plan, are not in default, and are not modified by this plan. These claims shall be paid by Debtor or a third person whether or not a proof of claim is filed[,] or the plan is confirmed.

Id. at § 3.10.

Here, the treatment of the delinquent mortgage in Class 4 (direct payment by the debtor) does not satisfy § 1325(a)(5). See 11 U.S.C. § 1325(a)(5)(B)(ii); *Lundin On Chapter 13* at § 74.8. The creditor has not expressly accepted this treatment in the plan; this court will not infer acceptance from the creditor's silence. 11 U.S.C. § 1325(a)(5)(A); *In re Pardee*, 218 B.R. 916, 939-40 (B.A.P. 9th Cir. 1998), *aff'd*, 193 F.3d 1083 (9th Cir. 1999) (Klein, J. concurring and dissenting) ("[I]mplied acceptance is a troublesome theory that has been largely discredited in all but one application: the formality of acceptance of a chapter 13 plan by a secured creditor whose claim is not being treated in accord with statutory standards may be implied from silence"). In the alternative, the plan does not provide for payment of the allowed amount of the claim, i.e., ongoing mortgage plus the arrearage. 11 U.S.C. § 1325(a)(5)(B). Finally, the plan does not provide for surrender of the collateral. 11 U.S.C. § 1325(a)(5)(C). Moreover, the classification does not comply with the terms of the mandatory form plan for the Eastern District. Plan § 3.07, EDC 03-080; LBR 3015-1(a).

As a result, the plan does not comply with § 1325(a)(5) and will not be confirmed.

FAILURE TO FILE TAX RETURNS

Together 11 U.S.C. §§ 1308 and 1325(a)(9) prohibit confirmation of a chapter 13 plan if the debtor has not filed all tax returns due during the 4-year period prior to the filing of the petition.

The court may not confirm a plan unless "the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308." 11 U.S.C. § 1325(a)(9).

(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

11 U.S.C. § 1308(a).

The trustee states that the debtor does not appear to have filed all the required tax returns. The motion to confirm states "Debtor has retained the services of a tax preparer and intends to submit all requested returns to the Trustee on or before the hearing on the present Motion." Motion to Confirm, ECF No. 25, 2:13-15. Thus, the plan cannot be confirmed without the filing of the necessary tax documents.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The debtor's motion to confirm a chapter 13 plan has been presented to the court. Having considered the motion together with papers filed in support and opposition to it, and having heard the arguments of counsel, if any, and good cause appearing, presented at the hearing,

IT IS ORDERED that the motion is denied. The court denies confirmation of the chapter 13 plan.

28. [22-22758](#)-A-13 **IN RE: LEONARDO PADILLA ORTIZ**
[DPC-2](#)

CONTINUED MOTION TO DISMISS CASE
3-6-2025 [\[65\]](#)

JULIUS CHERRY/ATTY. FOR DBT.

Final Ruling

Motion: Dismiss Case

Notice: Continued from April 15, 2025

Disposition: Denied

Order: Civil minute order

The hearing on this motion was continued from April 15, 2025, to allow for hearing on the debtor's motion to modify the chapter 13 plan. The motion to modify, GC-4, has been granted. The motion to dismiss will be denied.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Findings of fact and conclusions of law are stated in the civil minutes for the hearing.

The trustee's motion to dismiss has been presented to the court. Having considered the motion, the opposition, responses, and good cause appearing,

IT IS ORDERED that the motion is denied.

29. [22-22758](#)-A-13 **IN RE: LEONARDO PADILLA ORTIZ**
[GC-4](#)

MOTION TO MODIFY PLAN
4-3-2025 [\[73\]](#)

JULIUS CHERRY/ATTY. FOR DBT.
TRUSTEE NON-OPPOSITION

Final Ruling

Motion: Modify Chapter 13 Plan

Notice: LBR 3015-1(d)(2), 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by movant, approved by the trustee

Subject: Third Amended Chapter 13 Plan, filed April 3, 2025

DEFAULT OF RESPONDENT

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, incorporated by Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

The debtor(s) seek approval of the proposed modified Chapter 13 Plan. The plan is supported by Schedules I and J filed on April 3, 2025, ECF No. 72. The Chapter 13 trustee has filed a non-opposition to the motion, ECF No. 81.

CHAPTER 13 PLAN MODIFICATION

Chapter 13 plan modification is governed by 11 U.S.C. §§ 1322, 1323, 1325, 1329 and by Federal Rules of Bankruptcy Procedure 2002(a)(5) and 3015(g) and Local Bankruptcy Rule 3015-1. "[T]he only limits on modification are those set forth in the language of the Code itself, coupled with the bankruptcy judge's discretion and good judgment in reviewing the motion to modify." *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996).

Chapter 13 debtors seeking plan modification have the burden of proving that all requirements of § 1322(a) and (b) and § 1325(a) have been met. See 11 U.S.C. §§ 1322(a)-(b), 1325(a), 1329(b)(1); see also *In re Powers*, 202 B.R. at 622 ("[Section] 1329(b)(1) protects the parties from unwarranted modification motions by ensuring that the proposed modifications satisfy the same standards as required of the initial plan."); see also *In re Barnes*, 32 F.3d 405, 407 (9th Cir. 1994); *In re Andrews*, 49 F.3d 1404, 1408 (9th Cir. 1995).

The court finds that the debtor has sustained this burden of proof. The court will grant the motion and approve the modification.

30. [25-21661](#)-A-13 **IN RE: ANDREI GORBATENKO**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID CUSICK
5-21-2025 [\[18\]](#)

PETER MACALUSO/ATTY. FOR DBT.

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to September 9, 2025, at 9:00 a.m.

Order: Civil minute order

The Chapter 13 trustee objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to September 9, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than July 1, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the Chapter 13 trustee's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagree with the trustee's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order,

then the trustee shall file and serve a reply, if any, no later than August 19, 2025. The evidentiary record will close after August 19, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that if the parties resolve the trustee's objection, and there are no additional objections to confirmation pending, then the debtor(s) may submit an order confirming the plan which has been signed by the Chapter 13 trustee. The trustee's signature on the order confirming plan represents to the court that no further objections to confirmation of the proposed plan are pending.

31. [24-24664](#)-A-13 **IN RE: MOHAMAD ALAIDDIN AND RIMA KHAMEES**
[DPC-1](#)

AMENDED MOTION TO DISMISS CASE
5-2-2025 [\[22\]](#)

JULIUS CHERRY/ATTY. FOR DBT.
RESPONSIVE PLEADING

No Ruling

32. [25-20166](#)-A-13 **IN RE: YONG CHI**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
2-24-2025 [\[32\]](#)

MARK WOLFF/ATTY. FOR DBT.

Final Ruling

An Order Confirming Plan was filed on April 9, 2025, ECF No. 47. Accordingly, the objection will be removed from the calendar as moot. No appearances are required.

33. [22-21072](#)-A-13 **IN RE: TOM/EVERLYN NELSON**
[DPC-2](#)

AMENDED MOTION TO DISMISS CASE
5-2-2025 [\[105\]](#)

RICHARD KWUN/ATTY. FOR DBT.
DEBTORS DISMISSED: 05/12/25

Final Ruling

This case was dismissed on May 12, 2025. Accordingly, the motion will be removed from the calendar as moot. No appearances are required.

34. [22-21973](#)-A-13 **IN RE: BEATRICE EATON**
[RAS-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
4-30-2025 [\[93\]](#)

MARC VOISENAT/ATTY. FOR DBT.
SEAN FERRY/ATTY. FOR MV.
BANK OF NEW YORK MELLON TRUST COMPANY, N.A. VS.
DEBTOR DISMISSED: 05/18/25

Final Ruling

Motion: Stay Relief

Disposition: Denied as moot

Order: Civil minute order

Federal courts have no authority to decide moot questions. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67-68, 72 (1997). "The basic question in determining mootness is whether there is a present controversy as to which effective relief can be granted." *Nw. Env'tl. Def. Ctr. v. Gordon*, 849 F.2d 1241, 1244-45 (9th Cir. 1988) (citing *United States v. Geophysical Corp.*, 732 F.2d 693, 698 (9th Cir.1984)).

Dismissal of a bankruptcy case terminates the automatic stay. Under § 362(c)(1), the stay of an act against property of the estate terminates when such property leaves the estate. 11 U.S.C. § 362(c)(1). And the dismissal of a case "revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case." *Id.* § 349(b)(3). Under § 362(c)(2), the stay of "any other act" under § 362(a) terminates upon the earlier of three events: (i) dismissal of a case, (ii) closure of a case, or (iii) the time a discharge is granted or denied. 11 U.S.C. § 362(c)(2)(A)-(C).

Because the case has been dismissed, the automatic stay no longer exists. The court is unable to grant effective relief. The motion will be denied as moot.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the motion for relief from stay is denied as moot.

35. [25-21578](#)-A-13 **IN RE: KEVIN FERRIE AND SALECE YNOSTROZA**
[JCW-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY BRIDGECREST CREDIT
COMPANY, LLC
5-13-2025 [\[17\]](#)

MARK WOLFF/ATTY. FOR DBT.
JENNIFER WONG/ATTY. FOR MV.

Final Ruling

An Order Confirming Plan was filed on May 18, 2025, ECF No. 21. Accordingly, the objection will be removed from the calendar as moot. No appearances are required.

36. [25-21680](#)-A-13 **IN RE: ALIAYA PARKER**
[DPC-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY DAVID P. CUSICK
5-14-2025 [\[21\]](#)

CANDACE BROOKS/ATTY. FOR DBT.

Final Ruling

Objection: Trustee's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to September 9, 2025, at 9:00 a.m.

Order: Civil minute order

The Chapter 13 trustee objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to September 9, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than July 1, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the Chapter 13 trustee's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagree with the trustee's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the trustee's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order, then the trustee shall file and serve a reply, if any, no later than August 19, 2025. The evidentiary record will close after August 19, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the Chapter 13 trustee's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that if the parties resolve the trustee's objection, and there are no additional objections to confirmation pending, then the debtor(s) may submit an order confirming the plan which has been signed by the Chapter 13 trustee. The trustee's signature on the order confirming plan represents to the court that no further objections to confirmation of the proposed plan are pending.

37. [25-21680](#)-A-13 **IN RE: ALIAYA PARKER**
[KMM-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY SERVBANK, SB
5-6-2025 [\[12\]](#)

CANDACE BROOKS/ATTY. FOR DBT.
KIRSTEN MARTINEZ/ATTY. FOR MV.

Final Ruling

Objection: Creditor's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to September 9, 2025, at 9:00 a.m.

Order: Civil minute order

Creditor, Servbank, SB, objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to September 9, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than July 1, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the creditor's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagrees with the creditor's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the creditor's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position.

If the debtor(s) file a response under paragraph 3(B) of this order, then the creditor shall file and serve a reply, if any, no later than August 19, 2025. The evidentiary record will close after August 19, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the creditor's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that any stipulation between the parties resolving this matter must be approved and signed by the Chapter 13 trustee prior to filing with the court. The trustee's signature on the stipulation warrants that the terms of the proposed stipulation do not impact the plan's compliance with 11 U.S.C. § 1325(a).

38. [25-21680](#)-A-13 **IN RE: ALIAYA PARKER**
[SKI-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY SANTANDER CONSUMER USA
INC.
5-8-2025 [\[16\]](#)

CANDACE BROOKS/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.

Final Ruling

Objection: Creditor's Objection to Confirmation of Plan

Notice: LBR 3015-1(c)(4), 9014-1(f)(2); no written opposition required

Disposition: Continued to September 9, 2025, at 9:00 a.m.

Order: Civil minute order

Creditor, Santander Consumer USA, Inc., objects to confirmation of the debtor(s) plan.

Chapter 13 plan confirmation is governed by 11 U.S.C. §§ 1322, 1325 and by Federal Rule of Bankruptcy Procedure 2002(b) and Local Bankruptcy Rule 3015-1. The debtor has the burden of proving that the plan complies with all statutory requirements of confirmation. *In re Andrews*, 49 F.3d 1404, 1407-08 (9th Cir. 1995); *In re Barnes*, 32 F.3d 405, 407-08 (9th Cir. 1994).

The court will continue the hearing on this objection to allow the parties to augment the evidentiary record.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

IT IS ORDERED that the hearing on this objection will be continued to September 9, 2025, at 9:00 a.m. The court may rule in this matter without further hearing.

IT IS FURTHER ORDERED that no later than July 1, 2025, the debtor(s) shall do one of the following:

(A) File a Statement of No Opposition. If the debtor(s) agree that the creditor's objection is well taken, the debtor(s) shall concede the merits and file a statement of non-opposition to the objection. L.R. 230(c) ("A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect..."); LBR 1001-1(c)-(d) (omitting the applicability of L.R. 230 unless the court orders otherwise);

(B) Respond in Writing to the Objection. If the debtor(s) disagrees with the creditor's objection, the debtor(s) shall file and serve a written response to the objection; the response shall specifically address each issue raised in the creditor's objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence in support of the debtor's position. If the debtor(s) file a response under paragraph 3(B) of this order, then the creditor shall file and serve a reply, if any, no later than August 19, 2025. The evidentiary record will close after August 19, 2025; or

(C) File a Modified Plan. If the debtor(s) wish to resolve the creditor's objection by filing a modified plan, then the debtor(s) shall: (1) file and serve a modified Chapter 13 plan; and (2) file and serve a motion to confirm the modified plan.

IT IS FURTHER ORDERED that any stipulation between the parties resolving this matter must be approved and signed by the Chapter 13 trustee prior to filing with the court. The trustee's signature on the stipulation warrants that the terms of the proposed stipulation do not impact the plan's compliance with 11 U.S.C. § 1325(a).

39. [25-20087](#)-A-13 **IN RE: MOSES/TARA MENDOZA**
[DPC-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY DAVID P.
CUSICK
2-26-2025 [\[15\]](#)

MARK WOLFF/ATTY. FOR DBT.

Final Ruling

An Order Confirming Plan was filed on May 12, 2025, ECF No. 24. Accordingly, the objection will be removed from the calendar as moot. No appearances are required.

40. [24-24888](#)-A-13 **IN RE: ANGELA BEASLEY**

MOTION FOR COMPENSATION FOR GORDON G. BONES, DEBTORS
ATTORNEY(S)
5-16-2025 [\[96\]](#)

GORDON BONES/ATTY. FOR DBT.
DEBTOR DISMISSED: 04/16/25

Final Ruling

Application: Allowance of Final Compensation and Expense
Reimbursement

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Denied without prejudice

Order: Civil minute order

Debtor's counsel moves for an order approving the compensation and reimbursement of expenses. The motion will be denied for the following reasons.

All creditors and parties in interest have not received sufficient notice. The hearing on an application for approval of compensation or reimbursement of expenses, when the application requests approval of an amount exceeding \$1000, must be noticed to all creditors and parties in interest in the debtor's bankruptcy case as required by Federal Rule of Bankruptcy Procedure 2002(a)(3).

FEDERAL RULE OF BANKRUPTCY PROCEDURE 2002(a)(6)

(a) 21-Day Notices to the Debtor, Trustee, Creditors, and Indenture Trustees. Except as (h), (i), (l), (p), and (q) provide otherwise, the clerk or the court's designee must give the debtor, the trustee, *all creditors*, and all indenture trustees at least 21 days' notice by mail of: ...

(6) a hearing on a request for compensation or for reimbursement of expenses, if the request exceeds \$1,000;

Federal Rule of Bankruptcy Procedure 2002(a)(6) (emphasis added).

All creditors and parties in interest have not received sufficient notice. The hearing on an application for approval of compensation or reimbursement of expenses, when the application requests approval of an amount exceeding \$1000, must be noticed to all creditors and parties in interest in the debtor's bankruptcy case as required by Federal Rule of Bankruptcy Procedure 2002(a)(6).

Here, notice was insufficient. No creditors were listed on Attachment 6B-2 filed with the certificate of service, ECF No. 97. Since no creditors were served, this matter will be denied without prejudice due to notice issues.

LOCAL BANKRUPTCY RULE 9014-1

Amount of Notice.

(1) *Motions Set on 28 Days' Notice.* Unless a different amount of time is required by the Federal Rules of Bankruptcy Procedure, these Local Rules, or by order of the Court, or the moving party elects to give the notice permitted by LBR 9014-1(f)(2), the moving party shall file and serve the motion at least twenty-eight (28) days prior to the hearing date.

LBR 9014-1(f)(1).

The motion is being noticed pursuant to LBR 9014-1(f)(1). See Certificate of Service, ECF No. 96. To be compliant with LBR 9014-1(f)(1), 28 days of notice is necessary on a motion for compensation. LBR 9014-1(f)(1). The notice on this motion was filed on May 19, 2025, which only provides 22 days of notice. Thus, notice is insufficient, and this motion will be denied without prejudice.

AMALGAMATED MOTION AND MEMORANDUM VIOLATES LBR 9014-1(d)

Generally, a motion, notice of hearing, memorandum of points and authorities, supporting declaration, and certificate of service must each be filed as separate documents. LBR 9014-1(d)(1), (4). As a result, the motion and the memorandum of points and authorities may not be filed as an amalgamated document. See *id.*

Written motions are defined by their content in the Federal Rules of Bankruptcy Procedure. They must state the relief or order sought and the grounds for that relief or order. Fed. R. Bankr. P. 9013. "Legal grounds for the relief sought means citation to the statute, rule, case, or common law doctrine that forms the basis of the moving party's request *but does not include a discussion of those authorities or argument for their applicability.*" LBR 9014-1(d)(3)(A) (emphasis added). In contrast, a memorandum of points and authorities is "a succinct and reasoned explanation of the moving party's entitlement to relief." LBR 9014-1(d)(3)(C).

The rule prohibiting a combined motion and memorandum of points and authorities contains an exception when the total length of the combined document does not exceed 6 pages. LBR 9014-1(d)(4).

Here, counsel has combined the motion and memorandum of points and authorities. That document exceeds six pages. As a consequence, the movant has not complied with the separate document requirement of LBR 9014-1(d)(4).

DISMISSAL OF ACTION FOR FAILURE TO COMPLY WITH LOCAL RULES

Failure of counsel or of a party to comply with these Rules, with the Federal Rules of Civil Procedure or the Federal Rules of Bankruptcy Procedure, or with any order of the Court may be grounds for imposition of any and all sanctions authorized by statute or rule or

within the inherent power of the Court, including, without limitation, *dismissal of any action*, entry of default, finding of contempt, imposition of monetary sanctions or attorneys' fees and costs, and other lesser sanctions.

LBR 1001-1(g) (emphasis added).

Because the debtor has failed to comply with LBR 7005-1 the court will deny the motion without prejudice.

CIVIL MINUTE ORDER

The court shall issue a civil minute order that conforms substantially to the following form:

Counsel's motion for compensation has been presented to the court. Given the procedural deficiencies discussed by the court in its ruling,

IT IS ORDERED that the motion is denied without prejudice.