

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

Honorable Christopher D. Jaime
Robert T. Matsui U.S. Courthouse
501 I Street, Sixth Floor
Sacramento, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: July 1, 2025

CALENDAR: 1:00 P.M. CHAPTER 13

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

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters and no appearance is necessary. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within seven (7) days of the final hearing on the matter.

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

July 1, 2025 at 1:00 p.m.

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1. [20-90104](#)-B-13 PAUL DYKES MOTION TO SUBSTITUTE PARTY, AND
[DEF](#)-7 David Foyil ALLOW CHRISTOPHER DYKES TO SIGN
ON BEHALF OF PAUL NAPIER DYKES
AND FILE THE DEBTOR'S 11 U.S.C.
SECTION 1328 CERTIFICATE (FORM EDC
3-190) AS TO DEBTOR
5-19-25 [[139](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to substitute Christopher Dykes ("Christopher") to continue administration of the case, and waive the deceased debtor Paul Dykes' ("Debtor") certification otherwise required for entry of a discharge.

Christopher moves to act as the representative of the deceased Debtor, who passed away on December 5, 2020, in this bankruptcy proceeding. Christopher is the son of the deceased Debtor.

Discussion

Local Bankruptcy Rule 1016-1(b) allows the moving party to file a single motion, pursuant to Federal Rule of Civil Procedure 18(a) and Federal Rules of Bankruptcy Procedure 7018 and 9014(c), asking for the following relief:

- 1) Substitution as the representative for or successor to the deceased or legally incompetent debtor in the bankruptcy case [Fed. R. Civ. P. 25(a), (b); Fed. R. Bankr. P. 1004.1 & 7025];
- 2) Continued administration of a case under chapter 11, 12, or 13 (Fed. R. Bankr. P. 1016);
- 3) Waiver of post-petition education requirement for entry of discharge [11 U.S.C. §§ 727(a)(11), 1328(g)]; and
- 4) Waiver of the certification requirements for entry of discharge in a Chapter 13 case, to the extent that the representative for or successor to the deceased or incompetent debtor can demonstrate an inability to provide such certifications (11 U.S.C. § 1328).

In sum, the deceased Debtor's representative or successor must file a motion to substitute in as a party to the bankruptcy case. The representative or successor may

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also request a waiver of the post-petition education, and a waiver of the certification requirement for entry of discharge "to the extent that the representative for or successor to the deceased or incompetent debtor can demonstrate an inability to provide such certifications." Local Bankr. R. 1016-1(b)(4).

Based on the evidence submitted, the court will grant the request for substitution and to waive the § 1328 and financial management requirements for Debtor. The continued administration of this case is in the best interests of all parties and no opposition being filed by the Chapter 13 Trustee or any other parties in interest.

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

The court will issue an order.

2. [25-21906](#)-B-13 ELIZABETH RAPISURA
[LGT](#)-1 Peter G. Macaluso

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
5-30-25 [[24](#)]

Final Ruling

The *initial* Chapter 13 Plan filed April 22, 2025, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to July 8, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

The Chapter 13 Trustee objects to confirmation of the plan on grounds that Debtor failed to file the required attachment for Schedule I, Line 8a, as it relates to her rental income, that amended Forms 122C-1 and 122C-2 must be filed, that the Chapter 13 Business Questionnaire and relevant business documents must be provided, and that amended Statement of Financial Affairs must be filed to accurately reflect whether Debtor's business is still in operation.

Debtor filed a response stating that her business closed two months pre-petition filing, that her rental income is new, that she has filed amended Schedules C, I, and J, amended Statement of Financial Affairs, amended Form 122C-1, and provided the Trustee with all applicable business documents.

However, it appears that Debtor has not filed amended Form 122C-2. Without an amended Form 122C-2 to accompany the amended Form 122C-1, Debtor's discretionary income cannot be determined pursuant to 11 U.S.C. § 1325(b)(1)(B).

The plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on July 5, 2025, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtor, the Debtor's attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on July 8, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on July 8, 2025, at 1:00 p.m.

The objection is ORDERED CONDITIONALLY SUSTAINED and CONTINUED for reasons stated in the minutes.

The court will issue an order.

3. [25-90114](#)-B-13 KEVIN JORDAN
[DCJ](#)-2 David C. Johnston
DEBTOR DISMISSED: 05/29/25

MOTION TO CONFIRM PLAN
5-13-25 [[28](#)]

Final Ruling

The case having been dismissed on May 29, 2025, the motion to confirm plan is denied as moot.

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

The court will issue an order.

4. [25-90316](#)-B-13 ROBERT/RENEE WOMBER OBJECTION TO CONFIRMATION OF
[JCW](#)-1 Mary D. Anderson PLAN BY M&T BANK
Thru #5 6-4-25 [[18](#)]

Final Ruling

The *initial* Chapter 13 Plan filed April 28, 2025, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to July 8, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

Objecting creditor M&T Bank as attorney in fact for Lakeview Loan Servicing, LLC, holds a deed of trust secured by Debtors' residence. The creditor has filed a timely proof of claim in which it asserts \$11,300.95 in pre-petition arrearages. The plan does not propose to cure these arrearages. Because the plan does not provide for the surrender of the collateral for this claim, the plan must provide for full payment of the arrearage and maintenance of the ongoing note installments. See 11 U.S.C. §§ 1322(b)(2), (b)(5) and 1325(a)(5)(B). Because it fails to provide for the full payment of arrearages, the plan cannot be confirmed.

The plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on July 7, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtors, the Debtors' attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on July 8, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on July 8, 2025, at 1:00 p.m.

The objection is ORDERED CONDITIONALLY SUSTAINED and CONTINUED for reasons stated in the minutes.

The court will issue an order.

5. [25-90316](#)-B-13 ROBERT/RENEE WOMBER OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Mary D. Anderson PLAN BY LILIAN G. TSANG
5-29-25 [[14](#)]

Final Ruling

The *initial* Chapter 13 Plan filed April 28, 2025, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to July 8, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, the plan fails to provide for the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim is at least the amount that would be paid on such claim if the estate of the Debtors were liquidated under a Chapter 7 of this title on such date. 11 U.S.C. § 1325(a)(4). Debtors are to file amended Schedule A/B to reflect any interest in household goods, electronics, and tax refunds.

Second, the plan does not provide for all of Debtors' projected disposable income to be applied to unsecured creditors under the plan. 11 U.S.C. § 1325(b)(1)(B). Debtors are to file amended Form 122C-2 to remove deductions on lines 33 for secured debts regarding a 2022 Forest River Arctic Wolf that will be surrendered according to the plan.

Third, the Disclosure of Compensation of Attorney for Debtor form filed on April 24, 2025, is incorrect. In regard to question 5, the required language of the standard form is missing. The form does not match that of the form provided on the Eastern District of California court's website.

Fourth, Debtors are to file amended Schedule I to correct the VA Benefits income that they receive.

The plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on July 7, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtors, the Debtors' attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on July 8, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on July 8, 2025, at 1:00 p.m.

The objection is ORDERED CONDITIONALLY SUSTAINED and CONTINUED for reasons stated in the minutes.

The court will issue an order.

6. [24-21920](#)-B-13 RICARDO/SAMANTHA
[NAR](#)-3 RODRIGUEZ
Charles L. Hastings

MOTION TO CONFIRM PLAN
5-9-25 [[83](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtors have provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

7. [24-25024](#)-B-13 MAUREEN SHARMA
[MBW](#)-1 Peter G. Macaluso

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR RELIEF FROM CO-DEBTOR STAY
6-12-25 [[54](#)]

SIERRA CENTRAL CREDIT UNION
VS.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to deny without prejudice the motion for relief from automatic stay.

Sierra Central Credit Union ("Creditor") seeks relief from the automatic stay with respect to an asset identified as a 2019 Ford Edge (the "Vehicle") for failure to make six post-petition payments. Debtor filed an opposition stating that she was unaware that payments were to be paid directly to Creditor and that she would file an amended plan that addresses payment on this collateral.

A review of the court's docket shows that an amended plan was filed and the confirmation hearing is set for August 5, 2025. Therefore, the motion for relief from automatic stay is denied without prejudice.

The motion is ORDERED DENIED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

8. [24-25525](#)-B-13 SHANNON STOKES
[PGM](#)-2 Peter G. Macaluso

MOTION TO CONFIRM PLAN
5-21-25 [[43](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtor has provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

Final Ruling

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to not confirm the first amended plan.

First, Debtors' Schedule I includes a \$3,500.00 contribution to the household. The identity of the person or persons making the contribution has not been indicated on the schedule, and Debtors have failed to file a declaration of said person or persons attesting to their willingness and ability to make the monthly contribution for the 60-month plan term. Until a declaration is filed, feasibility cannot be determined.

Second, Debtors plan provides for BMO Bank as a Class 2 claim in the amount of \$19,052.98 to be paid at 8.75% interest with a monthly dividend of \$317.55. Debtors' plan is a 60-month plan and the average monthly dividend proposed for the Class 2 claim of BMO Bank will take 80 months to pay. 11 U.S.C. § 1325(a)(6).

Third, the plan provides for the payment of fees in excess of the fixed compensation allowed in Local Bankruptcy Rule 2016-1(c). Debtors' counsel took more than 25% of the total fees prior to filing.

Fourth, Debtors' motion to confirm plan is unsupported by a declaration addressing each element of section 1325(a). Local Rule 9014-1(d)(3)(D).

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

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

The court will issue an order.

10. [24-90626](#)-B-13 DAVID FREITAS
[DCJ](#)-2 David C. Johnston

MOTION TO CONFIRM PLAN
5-13-25 [[29](#)]

Final Ruling

The Chapter 13 Trustee having filed a notice of withdrawal of its objection, the objection is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

There being no other objection to confirmation, the plan filed May 13, 2025, will be confirmed.

The objection is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

IT IS FURTHER ORDERED that the plan is CONFIRMED for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

11. [25-90226](#)-B-13 MARITZA RIVERA
[RAS](#)-1 Pro Se

OBJECTION TO CONFIRMATION OF
PLAN BY NATIONS DIRECT
MORTGAGE, LLC
5-30-25 [[30](#)]

DEBTOR DISMISSED: 06/02/25

Final Ruling

The case having been dismissed on June 2, 2025, the objection to confirmation is overruled as moot.

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

The court will issue an order.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to deny without prejudice the motion to value collateral.

Debtor moves to value the secured claim of Lendmark Financial Services ("Creditor"). Debtor is the owner of a 2000 Chevrolet Silverado ("Vehicle"). The Debtor seeks to value the Vehicle at a replacement value of \$3,291.00 as of the petition filing date. As the owner, Debtor's opinion of value is evidence of the asset's value. See Fed. R. Evid. 701; see also *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

Proof of Claim Filed

The court has reviewed the Claims Registry for this bankruptcy case. Claim No. 2-1 filed by Lendmark Financial Services is the claim which may be the subject of the present motion.

Discussion

The court finds issue with Debtors' valuation. First, the declaration states that the valuation of the Vehicle is based on a Kelley Blue Book printout but this is a third-party industry source and, therefore, Debtor's opinion of value is based on hearsay. Fed R. Evid. 801-803; see also *In re Guerra*, 2008 WL 3200931, *2 n.4 (Bankr. E.D. Cal. 2008) ("Filed with Guerra's declaration was an unauthenticated document titled: 'Edmonds.com True Market Value Pricing Report.' The court has not considered this attachment in that it is inadmissible hearsay[.]"). Second, the motion states that the valuation is a "private party" value. This is the value in which a private party, who is not a retailer, could buy or sell a car. The standard here must be a retail valuation, taking into account the condition of the car. See 11 U.S.C. § 506(a).

In the Chapter 13 context, the replacement value of personal property used by debtors for personal, household or family purposes is "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." See 11 U.S.C. § 506(a)(2). The time value is determined is the date of filing of the petition without deduction for costs of sale or marketing. *Id.*

The Debtor has not persuaded the court regarding its position for the value of the Vehicle. The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a) is denied without prejudice.

The motion is ORDERED DENIED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

13. [25-90050](#)-B-13 TRAVIS/CONSTANCE WOOTEN MOTION TO CONFIRM PLAN
[CRG](#)-2 Carl R. Gustafson 5-13-25 [[49](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtors have provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

Tentative Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition and may appear at the hearing to offer oral argument.

The court's decision is to grant the motion to extend automatic stay.

Debtor seeks to have the automatic stay extended beyond 30 days pursuant to 11 U.S.C. § 362(c)(3). This is the Debtor's second bankruptcy petition pending in the past 12 months. The Debtor's prior bankruptcy case was dismissed on May 1, 2025, for failure to attend the meeting of creditors, failure to provide documents to the Chapter 13 Trustee, and failure to commence making plan payments (case no. 25-90021). Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end in their entirety 30 days after filing of the petition. See e.g., *Reswick v. Reswick* (*In re Reswick*), 446 B.R. 362 (9th Cir. BAP 2011) (stay terminates in its entirety); accord *Smith v. State of Maine Bureau of Revenue Services* (*In re Smith*), 910 F.3d 576 (1st Cir. 2018). This motion was set for hearing within 30 days of the filing of the instant case.

Discussion

Upon motion of a party in interest and after notice and hearing, the court may order the provisions extended beyond 30 days if the filing of the subsequent petition was in good faith. 11 U.S.C. § 362(c)(3)(B). The subsequently filed case is presumed to be filed in bad faith if there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13. *Id.* at § 362(c)(3)(C)(i)(III). The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* at § 362(c)(3)(C).

In determining if good faith exists, the court considers the totality of the circumstances. *In re Elliot-Cook*, 357 B.R. 811, 814 (Bankr. N.D. Cal. 2006); see also Laura B. Bartell, *Staying the Serial Filer - Interpreting the New Exploding Stay Provisions of § 362(c)(3) of the Bankruptcy Code*, 82 Am. Bankr. L.J. 201, 209-210 (2008).

Debtor asserts that the previous case failed due to experiencing serious domestic issues with his estranged wife and her groundless accusations related to his care for their three children. Additionally, Debtor continues to suffer from liver disease and is waiting for a liver transplant. Debtor states that he cares for his children all of the time except for two or three days a week when he does mechanic work for several small trucking companies. When Debtor is working, his elderly mother cares for his children. Debtor states that he has resolved many of these stressors and that he has filed the present case in good faith and is fully committed to making a successful one.

The Debtor has sufficiently rebutted, by clear and convincing evidence, the presumption of bad faith under the facts of this case and the prior case for the court to extend the automatic stay.

The motion is granted and the automatic stay is extended for all purposes and parties, unless terminated by operation of law or further order of this court.

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

The court will issue an order

15. [25-90256](#)-B-13 GREGORY/ELIZABETH
AF-1 BROTHERTON
Arasto Farsad

MOTION TO VALUE COLLATERAL OF
INTERNAL REVENUE SERVICE AND/OR
MOTION TO AVOID LIEN OF
INTERNAL REVENUE SERVICE
5-28-25 [[26](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The motion will be denied without prejudice for the following two reasons.

Debtors Gregory and Elizabeth Brotherton ("Debtors") move to value and avoid an IRS lien that encumbers their principal residence located at 10897 Quartz Drive, Wallace, CA 95254 ("Property").

First, Debtors rely exclusively on their opinion of the Property's value for lien valuation and avoidance purposes. As the Property's owners, the Debtors may provide their lay opinion of the Property's value. See Fed. R. Evid. 701. But what the Debtors may not do is base their lay opinion on inadmissible hearsay as they have done here. See *e.g.*, dkt. 26 at ¶ 6 ("Debtors estimate the Property's fair market value to be \$550,000.00 based on discussions with a local Realtor."); dkt. 28 at ¶ 3 ("I estimate the Property's fair market value to be \$550,000.00 based on discussions with a local Realtor."). In other words, the Debtors may not simply repeat what they were apparently told by someone else as to the Property's worth. *Taxinet Corp. v. Leon*, 114 F.4th 1212, 1226 (11th Cir. 2024) ("What the owner is not allowed to do is merely repeat another person's valuation." (Cleaned up)).

Second, Debtors' request to avoid the IRS lien after it is valued is equally (and substantively) defective. A lien valued at \$0 under 11 U.S.C. § 506(a) and thereby rendered an allowed unsecured claim is generally not avoided unless and until plan payments are completed, and even then an adversary proceeding may be required if the lien is not voluntarily reconveyed. See *In re Frazier*, 448 B.R. 803, 810 (Bankr. E.D. Cal. 2011), *aff'd*, 469 B.R. 889 (E.D. Cal. 2012); *In re Wall*, 2009 WL 9095131, *2 (Bankr. E.D. Cal. May 7, 2009).

The motion is ORDERED DENIED WITHOUT PREJUDICE for the reasons stated in the minutes.

The court will prepare an order.

16. [25-21168](#)-B-13 JILL ARRINGTON
[JCK](#)-1 Kathleen H. Crist

MOTION TO VALUE COLLATERAL OF
FOUNDATION FINANCE COMPANY, LLC
5-23-25 [[18](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to value the secured claim of Foundation Finance Company, LLC at \$4,000.00.

Debtor moves to value the secured claim of Foundation Finance Company, LLC ("Creditor"). Debtor is the owner of laminated flooring. The Debtor seeks to value the flooring at a replacement value of \$4,000.00 as of the petition filing date. As the owner, Debtor's opinion of value is evidence of the asset's value. See Fed. R. Evid. 701; see also *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

Proof of Claim Filed

The court has reviewed the Claims Registry for this bankruptcy case. Claim No. 9-1 filed by Foundation Finance Company, LLC is the claim which may be the subject of the present motion.

Discussion

In the Chapter 13 context, the replacement value of personal property used by a debtor for personal, household, or family purposes is "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." See 11 U.S.C. § 506(a)(2). The time limitation to offer the fair market value of personal property, including furniture, appliances, and boats, is more than one year prior to the filing of the petition. See 11 U.S.C. § 1325(a).

The total dollar amount of the obligation to Creditor is \$12,207.69 as stated in Claim No. 9-1. Debtors assert that the flooring is over two years old and in daily use. Because the flooring is laminated, it has been glued down to the floor and therefore has very little if any resale value. Nonetheless, Debtor asserts that it might have some value and therefore thinks that the fair market replacement value is \$4,000.

Given the aforementioned, Creditor's claim secured by a lien on the asset's title is under-collateralized. The Creditor's secured claim is determined to be in the amount of \$4,000.00. See 11 U.S.C. § 506(a). The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a) is granted.

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

The court will issue an order.

17. [25-90275](#)-B-13 YEKATERINA MAYORKIS
[LGT](#)-1 Carl R. Gustafson

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
5-29-25 [[22](#)]

Final Ruling

The Chapter 13 Trustee having filed a notice of withdrawal of its objection, the objection is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

There being no other objection to confirmation, the plan filed April 11, 2025, will be confirmed.

The objection is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

IT IS FURTHER ORDERED that the plan is CONFIRMED for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

18. [25-20879](#)-B-13 MELISSA BICE MOTION TO CONFIRM PLAN
[JCK](#)-1 Gregory J. Smith 5-13-25 [[25](#)]

Final Ruling

This case having been converted to one under chapter 7, the motion to confirm plan is denied as moot.

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

The court will issue an order.

19. [25-90082](#)-B-13 MEL DIRIGE
[DCJ](#)-1 David C. Johnston

MOTION TO CONFIRM PLAN
5-13-25 [[24](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtor has provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

20. [25-20485](#)-B-13 STEVEN KAMP
[SMK](#)-1 Pro Se
Thru #21

CONTINUED MOTION TO CONFIRM
PLAN
4-3-25 [[30](#)]

Final Ruling

Debtor having filed a second amended plan at Item #21, SMK-2, the motion to confirm first amended plan is denied as moot.

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

The court will issue an order.

21. [25-20485](#)-B-13 STEVEN KAMP
[SMK](#)-2 Pro Se

CONTINUED MOTION TO CONFIRM
PLAN
5-6-25 [[50](#)]

Final Ruling

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to not confirm the second amended plan.

First, Debtor filed Amended Form 122C-1 but did not file the required 122C-2. Without an Amended Form 122C-2 to accompany the Amended Form 122C-1, Debtor's discretionary income cannot be determined pursuant to 11 U.S.C. § 1325(b)(1)(B).

Second, Debtor submitted his 2024 federal and state income tax returns. Those returns showed Debtor owes a combined total of \$36,547.00 in priority income tax debt. However, the 2024 priority tax debts are not listed in Debtor's Schedule E. An amended Schedule E must be filed reflecting all of Debtor's priority tax debt.

Third, the plan must provide for all priority tax debts pursuant to 11 U.S.C. § 1322(a)(2). This includes the 2024 tax liability, other years listed in Schedule E, and a priority tax claim filed by the Franchise Tax Board as Claim No. 4.

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

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

The court will issue an order.

22. [24-90786](#)-B-13 MITCHELL/MARCELLA EICH MOTION TO CONFIRM PLAN
[DCJ](#)-2 David C. Johnston 5-13-25 [[32](#)]

Final Ruling

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to not confirm the first amended plan.

The plan does not provide for all of Debtors' projected disposable income to be applied to unsecured creditors under the plan. 11 U.S.C. § 1325(b)(1)(B). Based on Debtor's petition and schedules, the projected disposable income available to be applied to make payments to unsecured creditors pursuant to 11 U.S.C. § 1325(b)(1)(B) is \$2,646.13 for 60 months or \$158,767.00, which would result in a 42% dividend to the general unsecured creditors. Debtors' plan provides for a 17% distribution to Debtors' general unsecured creditors. Therefore, Debtors' plan fails to comply with 11 U.S.C. § 1325(b)(1)(B).

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

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

The court will issue an order.

23. [25-21788](#)-B-13 LISA EARNEST
[LGT](#)-1 Kathleen H. Crist

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
5-29-25 [[13](#)]

CONTINUED TO 7/08/25 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS
SET FOR 6/26/25.

Final Ruling

No appearance at the July 1, 2025, hearing is required. The court will issue an order.

24. [25-21789](#)-B-13 DAVID/IMELDA VOLKMAN
[LGT](#)-1 Lars Fuller

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
5-29-25 [[25](#)]

CONTINUED TO 7/08/25 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS
SET FOR 6/26/25.

Final Ruling

No appearance at the July 1, 2025, hearing is required. The court will issue an order.

25. [23-21890](#)-B-13 ESTHER CHAVEZ
[JDH](#)-4 James D Hornbuckle
Thru #26

CONTINUED MOTION TO VALUE
COLLATERAL OF DEUTSCHE BANK
NATIONAL TRUST CO./SHELLPOINT
SERVICING
5-5-25 [[134](#)]

Final Ruling

The motion was continued to allow debtor Esther Chavez ("Debtor") additional time to serve Deutsche Bank National Trust Company/Shellpoint Servicing ("Creditor") in accordance with Fed. R. Bankr. P. 7004(h). Debtor's counsel filed a declaration stating that based on his search, neither Deutsche Bank National Trust Company nor Shellpoint Servicing is a federally insured depository institution. The court's review of the FDIC Bank Find website confirms this to be accurate.

The court's decision is to value the secured claim of Creditor at \$0.00.

Debtor moves to value the secured claim of Creditor pursuant to 11 U.S.C. § 506(a). Debtor is the owner of the subject real property commonly known as 205 Paragon Avenue Stockton, California ("Property"). Debtor seeks to value the Property at a fair market value of \$290,000.00 as of the petition filing date. As the owner, Debtor's opinion of value is some evidence of the asset's value. See Fed. R. Evid. 701; see also *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

Proof of Claim Filed

The court has reviewed the Claims Registry for this bankruptcy case. It appears that Claim No. 3-1 filed by Deutsche Bank National Trust Company on August 16, 2023, is the claim which may be the subject of the present motion. This claim was subsequently transferred to Shellpoint Mortgage Services in August 2024. Dkt. 103.

Discussion

The first deed of trust secures a claim with a balance of approximately \$294,102.08. Creditor's second deed of trust secures a claim with a balance of approximately \$163,229.11. Therefore, Creditor's claim secured by a junior deed of trust is completely under-collateralized. Creditor's secured claim is determined to be in the amount of \$0.00, and therefore no payments shall be made on the secured claim under the terms of any confirmed Plan. See 11 U.S.C. § 506(a); *Zimmer v. PSB Lending Corp. (In re Zimmer)*, 313 F.3d 1220 (9th Cir. 2002); *Lam v. Investors Thrift (In re Lam)*, 211 B.R. 36 (B.A.P. 9th Cir. 1997).

The valuation motion pursuant to Federal Rule of Bankruptcy Procedure 3012 and 11 U.S.C. § 506(a) is granted.

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

The court will issue an order.

26. [23-21890](#)-B-13 ESTHER CHAVEZ
[JDH](#)-5 James D Hornbuckle

CONTINUED MOTION TO CONFIRM
PLAN
5-5-25 [[140](#)]

Final Ruling

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition.

Cf. Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to confirm the fourth amended plan.

First, the Chapter 13 Trustee ("Trustee") objects to confirmation of the plan on grounds that the monthly payment for mortgage arrears and ongoing mortgage payments plus Trustee's compensation and expense totals \$3,033.18. Additionally, a notice of payment change was filed by the first mortgage lender increasing the monthly mortgage payment. With this increase, the monthly payment with Trustee's compensation and expense totals \$3,078.00. Trustee states that this can be resolved in an order confirming plan.

Second, feasibility depends on the granting of a motion to value collateral of Deutsche Bank National Trust Company/Shellpoint Servicing. That matter was granted at Item #25, JDH-4.

The amended plan complies with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtor has provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

28. [25-21690](#)-B-13 ANTHONY MOORE
[LGT](#)-1 Pro Se

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
5-29-25 [[18](#)]

CONTINUED TO 7/15/25 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS
SET FOR 7/02/25.

Final Ruling

No appearance at the July 1, 2025, hearing is required. The court will issue an order.

29. [25-21594](#)-B-13 ZACHARY BUTCHER
[JCK](#)-1 Gregory J. Smith

MOTION TO CONFIRM PLAN
5-15-25 [[14](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtor has provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.