

**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 6, 2021

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 6, 2021 at 1:00 p.m.

1. [17-24141](#)-B-13 CATALINA CARREON MOTION TO MODIFY PLAN
[MC-1](#) Muoi Chea 5-24-21 [[26](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtor has filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

2. [21-21449](#)-B-13 GARY/DIANNE AMBRIZ
[RDG](#)-1 Thomas A. Moore

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
6-10-21 [[18](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

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 **continue the hearing to July 13, 2021, at 1:00 p.m.** to provide the Debtors' attorney with an opportunity to correct the minor unresolved issue identified below.

First, Debtor and Joint Debtor appeared at the continued meeting of creditors set for June 23, 2021. The meeting concluded as to the Debtors.

Second, Debtors filed an amended Disclosure of Compensation of Attorney that does not exclude judicial lien avoidances and relief from stay actions.

Third, Section 3.05 of the plan is not check marked to indicate how payments of attorney's fees are to be made.

Due to the unresolved issue stated at item three, the plan filed May 3, 2021, does not comply with 11 U.S.C. §§ 1322 and 1325(a). Nevertheless, in the interests of judicial economy and to avoid unnecessary delay, the court will permit the Debtors' attorney to file a declaration by 5:00 p.m. on July 9, 2021, stating which box of Section 3.05 shall be checked.

If a declaration is timely filed, the box of Section 3.05 designated in the declaration shall be the box on the plan filed May 3, 2021, deemed to have been checked and the plan filed May 3, 2021, will comply with 11 U.S.C. §§ 1322 and 1325(a). The objection will be overruled and the plan confirmed on July 13, 2021, with the confirmation order prepared by counsel and transmitted to the Chapter 13 Trustee for approval clearly identifying the box at Section 3.05 deemed to be checked.

If a declaration is not timely filed the objection will be sustained, the plan filed May 3, 2021, will not comply with 11 U.S.C. §§ 1322 and § 1325(a), and the plan will not be confirmed.

The court will issue an order.

3. [11-46464](#)-B-13 LEONID/LYUDMILA VASILENKO MOTION TO AVOID LIEN OF TRI
[PGM-1](#) Peter G. Macaluso COUNTIES BANK
Thru #4 6-2-21 [[106](#)]

Final Ruling

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

The court's decision is to grant the motion to avoid judicial lien.

This is a request for an order avoiding the judicial lien of Tri Counties Bank ("Creditor") against the Debtors' property commonly known as 7858 Antelope Run Drive, Antelope, California ("Property").

A judgment was entered against Debtors in favor of Creditor in the amount of \$29,296.91. An abstract of judgment was recorded with Sacramento County on February 17, 2010, which encumbers the Property.

Pursuant to the Debtors' Schedule A, the Property has an approximate value of \$255,000.00 as of the date of the petition. Debtors have claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of \$1.00 on Schedule C. All other liens recorded against the Property total \$513,235.73.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the Debtors' exemption of the real property and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

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

The court will issue an order.

4. [11-46464](#)-B-13 LEONID/LYUDMILA VASILENKO MOTION TO AVOID LIEN OF
[PGM-2](#) Peter G. Macaluso CITIBANK (SOUTH DAKOTA) N.A.
6-2-21 [[112](#)]

Final Ruling

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

The court's decision is to grant the motion to avoid judicial lien.

This is a request for an order avoiding the judicial lien of Citibank (South Dakota) N.A. ("Creditor") against the Debtors' property commonly known as 7858 Antelope Run Drive, Antelope, California ("Property").

A judgment was entered against Joint Debtor in favor of Creditor in the amount of \$28,076.29. An abstract of judgment was recorded with Sacramento County on April 25,

2011, which encumbers the Property.

Pursuant to the Debtors' Schedule A, the Property has an approximate value of \$255,000.00 as of the date of the petition. Debtors have claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(1) in the amount of \$1.00 on Schedule C. All other liens recorded against the Property total \$513,235.73.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the Debtors' exemption of the real property and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

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

The court will issue an order.

5. [18-26974](#)-B-13 FERNANDO CANTILLO
[JCK](#)-8 Gregory J. Smith

AMENDED MOTION TO MODIFY PLAN
5-21-21 [[124](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtor has filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

Final Ruling

The objection has been set for hearing on at least 30 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(b)(2). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to conditionally sustain the objection to Claim No. 23-1 of Merchants Credit Solutions and **continue the matter to July 13, 2021, at 1:00 p.m.**

The Chapter 13 Trustee requests that the court disallow the claim of Merchants Credit Solutions ("Creditor"), Claim No. 23-1. The claim is asserted to be in the amount of \$897.91. The Trustee asserts that the claim has not been timely filed. See Fed. R. Bankr. P. 3002(c). The deadline for filing proofs of claim in this case for a non-government unit was September 24, 2020. The Creditor's claim was filed December 22, 2020.

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

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

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

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

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

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

Based on the evidence before the court, the Creditor's claim is conditionally

disallowed in its entirety as untimely. The objection to the proof of claim is conditionally sustained.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 3007-1(b)(2), any party in interest shall have until 5:00 p.m. on Friday, July 9, 2021, to file and serve an opposition or other response to the motion. See Local Bankr. R. 3007-1(b)(2). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted 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 13, 2021, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on July 13, 2021, at 1:00 p.m.

The court will issue an order.

7. [21-21489](#)-B-13 ARTHUR MENDOZA AND MOTION FOR RELIEF FROM
[JHK](#)-1 CONSUELO LEYVA MENDOZA AUTOMATIC STAY
Thru #10 Mikalah R. Liviakis 6-1-21 [[23](#)]
FORD MOTOR CREDIT COMPANY LLC VS.

Final Ruling

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

The court's decision is to grant the motion for relief from stay.

Ford Motor Credit Company LLC ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2019 Ford F150 (the "Vehicle"). The moving party has provided the Declaration of Glenn Veeder to introduce into evidence the documents upon which it bases the claim and the obligation owed by the Debtor.

The Veeder Declaration states that Debtors are in default for regular payments from February 2021 through May 2021 for a total default of \$5,029.00. On May 26, 2021, Debtors surrendered the Vehicle to the dealership. Debtors' intent to surrender the Vehicle is supported by plan filed April 23, 2021, which lists the Vehicle in Class 3. Movant is in the process of securing the Vehicle.

Discussion

The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay since the Debtors and the estate have not made post-petition payments. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

[Additionally, once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates. Ltd.*, 484 U.S. 365, 375-76 (1988); 11 U.S.C. § 362(g)(2). Based upon the evidence submitted, the court determines that there is no equity in the Vehicle for either the Debtors or the Estate. 11 U.S.C. § 362(d)(2). And no opposition or showing having been made by the Debtors or the Trustee, the court determines that the Vehicle is not necessary for any effective reorganization in this Chapter 13 case.

The court shall issue an order terminating and vacating the automatic stay to allow creditor, its agents, representatives and successors, and all other creditors having lien rights against the Vehicle, to repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

There also being no objections from any party, the 14-day stay of enforcement under Rule 4001(a)(3) is waived.

No other or additional relief is granted by the court.

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

The court will issue an order.

8. [21-21489](#)-B-13 ARTHUR MENDOZA AND MOTION FOR RELIEF FROM
[JHK](#)-2 CONSUELO LEYVA MENDOZA AUTOMATIC STAY
Mikalah R. Liviakis 6-3-21 [[31](#)]
CAB WEST, LLC VS.

Final Ruling

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

The court's decision is to grant the motion for relief from stay.

CAB West, LLC ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2020 Lincoln Continental (the "Vehicle"). The moving party has provided the Declaration of Glenn Veeder to introduce into evidence the documents upon which it bases the claim and the obligation owed by the Debtor.

The Veeder Declaration states that Debtors are in default for regular payments from April 2021 through May 2021 for a total default of \$2,221.16. On May 26, 2021, Debtors surrendered the Vehicle to the dealership. Debtors' intent to surrender the Vehicle is supported by plan filed April 23, 2021, which lists the Vehicle in Class 3. Movant is in the process of securing the Vehicle.

Discussion

The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay since the Debtors and the estate have not made post-petition payments. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

[Additionally, once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 375-76 (1988); 11 U.S.C. § 362(g)(2). Based upon the evidence submitted, the court determines that there is no equity in the Vehicle for either the Debtors or the Estate. 11 U.S.C. § 362(d)(2). And no opposition or showing having been made by the Debtors or the Trustee, the court determines that the Vehicle is not necessary for any effective reorganization in this Chapter 13 case.

The court shall issue an order terminating and vacating the automatic stay to allow creditor, its agents, representatives and successors, and all other creditors having lien rights against the Vehicle, to repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

There also being no objections from any party, the 14-day stay of enforcement under Rule 4001(a)(3) is waived.

No other or additional relief is granted by the court.

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

The court will issue an order.

9. [21-21489](#)-B-13 ARTHUR MENDOZA AND OBJECTION TO CONFIRMATION OF
[MMJ](#)-1 CONSUELO LEYVA MENDOZA PLAN BY ALLY BANK
Mikalah R. Liviakis 5-24-21 [[19](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

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 overrule the objection.

Ally Bank ("Movant"), which holds a security interest in the vehicle described as a 2019 Ford F150 ("Vehicle"), objects to confirmation of the plan but does not state with particularity the grounds for relief sought and the legal argument necessary to support it. Debtors' plan filed April 23, 2021, lists the Vehicle in Class 3 to be surrendered, the Debtors already surrendered the Vehicle on May 26, 2021, and the court has granted the motion for relief from stay as to the Vehicle at Item #7, JHK-1.

For the reasons stated above, the objection is overruled. The court makes no determination as to confirmation of the plan.

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

The court will issue an order.

10. [21-21489](#)-B-13 ARTHUR MENDOZA AND OBJECTION TO CONFIRMATION OF
[RDG](#)-2 CONSUELO LEYVA MENDOZA PLAN BY RUSSELL D. GREER
Mikalah R. Liviakis 6-15-21 [[47](#)]

CONTINUED TO 7/20/2021 at 1:00 P.M. TO BE HEARD IN CONJUNCTION WITH THE CHAPTER 13 TRUSTEE'S OBJECTION TO DEBTORS' EXEMPTIONS.

Final Ruling

No appearance at the July 6, 2021, hearing is required. The court will issue an order.

Final Ruling

The motion been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). Opposition was filed by the Chapter 13 Trustee and a response was filed by the Debtor.

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

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

The Chapter 13 Trustee objects to confirmation on numerous grounds, some of which were issues also raised in its objection to the Debtor's prior motion to modify plan filed March 22, 2021. Debtor has also filed an extensive response offering to fix a number of these deficiencies in the confirmation order.

However, as stated in the court's civil minutes denying the prior motion to modify plan, see *dk*. 74, only minor corrections may be made in the confirmation order. In other words, the confirmation order is not a vehicle to revise a plan that is otherwise unconfirmable so that it may be confirmed.

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

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

The court will issue an order.

12. [21-21196](#)-B-13 GREGORY RENWICK CONTINUED OBJECTION TO
[APN](#)-1 Peter G. Macaluso CONFIRMATION OF PLAN BY TOYOTA
Thru #15 MOTOR CREDIT CORPORATION
5-18-21 [[23](#)]

CONTINUED TO 8/03/21 AT 1:00 P.M. TO BE HEARD IN CONJUNCTION WITH DEBTOR'S
CONTINUED MOTION TO VALUE COLLATERAL, PGM-2.

Final Ruling

No appearance at the July 6, 2021, hearing is required. The court will issue an order.

13. [21-21196](#)-B-13 GREGORY RENWICK MOTION TO VALUE COLLATERAL OF
[PGM](#)-2 Peter G. Macaluso TOYOTA MOTOR CREDIT CORPORATION
5-26-21 [[30](#)]

Final Ruling

The motion has been set for hearing on 28-days' notice. Local Bankruptcy Rule 9014-1(f)(1). 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).

The court's decision is to **continue the matter to August 3, 2021, at 1:00 p.m.**

Debtor moves to value the secured claim of Toyota Motor Credit Corporation ("Creditor"). Debtor is the owner of a 2015 Toyota Camry ("Vehicle"). The Debtor seeks to value the Vehicle at a replacement value of \$10,000.00 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).

Creditor has filed an opposition requesting for the matter to be continued in order to obtain an appraisal or expert valuation of the Vehicle. Creditor has filed Proof of Claim 4-1.

The matter will be continued to August 3, 2021, at 1:00 p.m. to allow Creditor the opportunity to prepare an appraisal of the Vehicle.

The court will issue an order.

14. [21-21196](#)-B-13 GREGORY RENWICK CONTINUED OBJECTION TO
[RDG](#)-1 Peter G. Macaluso CONFIRMATION OF PLAN BY RUSSELL
D. GREER
6-2-21 [[38](#)]

CONTINUED TO 8/03/21 AT 1:00 P.M. TO BE HEARD IN CONJUNCTION WITH DEBTOR'S
CONTINUED MOTION TO VALUE COLLATERAL, PGM-2.

Final Ruling

No appearance at the July 6, 2021, hearing is required. The court will issue an order.

15. [21-21196](#)-B-13 GREGORY RENWICK
[RDG](#)-2 Peter G. Macaluso

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
6-2-21 [[42](#)]

Final Ruling

The objection has been set for hearing on at least 28-days' notice required by Local Bankruptcy Rule 9014-1(f)(1) and Federal Rule of Bankruptcy Procedure 4003(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 will address the merits of the motion at the hearing.

The court's decision is to overrule the objection and allow the claimed exemptions.

The Trustee objects to the Debtor's use of the California exemptions without the filing of the spousal waiver required by California Code of Civil Procedure § 703.140(a)(2). Debtor filed a response stating that the spousal waiver has been filed. The court's review of the docket reveals that the spousal waiver was filed on June 21, 2021. The Trustee's objection is overruled and the claimed exemptions are allowed.

The objection is ORDERED OVERRULED and the claimed exemptions ALLOWED for reasons stated in the minutes.

The court will issue an order.