

**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 11, 2023

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 11, 2023 at 1:00 p.m.

1. [21-20402](#)-B-13 ALFONSO PULIDO MOTION TO MODIFY PLAN
[PGM](#)-5 Peter G. Macaluso 6-2-23 [[94](#)]

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 motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

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

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

All sums required by the plan have not been paid. 11 U.S.C. § 1325(a)(2). Plan payments through May 2023 total \$134,020.00. However, Debtors have paid only \$122,275.00. Therefore, Debtors are \$11,745.00 delinquent under the proposed plan.

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.

3. [22-21609](#)-B-13 FRANCISCO/MARIA PADILLA
[RAS](#)-1 Peter G. Macaluso

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR RELIEF FROM CO-DEBTOR STAY
6-9-23 [[77](#)]

U.S. BANK NATIONAL
ASSOCIATION 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). Opposition was filed.

The court has reviewed the motion, opposition, and all related declarations and exhibits. The court has also reviewed and takes judicial notice of the docket. See Fed. R. Evid. 201(c). Oral argument is not necessary and will not assist in the disposition of the motion. See Local Bankr. R. 1001-1(c), 9014-1(f).

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

U.S. Bank National Association ("Movant") seeks relief from the automatic stay with respect to real property commonly known as 5611 Turtle Valley Drive, Stockton, California (the "Property"). Movant has provided the Declaration of Diego Rojas to introduce into evidence the documents upon which it bases the claim and the obligation secured by the Property. The Rojas Declaration states that there are four post-petition payments in default totaling \$4,244.76. Movant also seeks attorney's fees in the amount of \$1,238.00.

Opposition was filed by Debtors stating that they sent \$4,244.76 to Movant, who is listed as a Class 4 claim to be paid directly, for the missing four post-petition payments and that the amount will arrive before the date of the hearing on this matter. Debtors also contend that there is nearly \$200,000.00 in equity in the Property. Debtors argue that given the post-petition arrears will be cured and the substantial equity in the Property, the motion for relief from automatic stay should be denied. Separately, Debtor states that Movant's request for attorney's fees is inappropriate since it is not supported by any billing statement and Movant failed to exercise due diligence by informing Debtor's counsel of the missing payments before filing this motion.

Based on Movant's assertions, the Property is valued at \$426,000.00 and Movant is owed \$197,359.95 for purposes of this motion. See *dk. 81*. Movant is therefore protected by equity totaling \$228,640.05 which means there is an equity cushion of 53.67%. The Ninth Circuit has held that an equity cushion of 20% is adequate protection for a secured creditor's interest in real property, even in the absence of payment. See *e.g., Pistole v. Mellor (In re Mellor)*, 734 F.2d 1396, 1401 (9th Cir. 1984).

It appears that the purported default may have been cured and, in any event, Movant is adequately protected even if it is not. The motion in its entirety is therefore denied without prejudice.

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

The court will issue an order.

4. [23-21211](#)-B-13 RODOLFO BENAVIDES
[RDG-1](#) Pro Se

OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE RUSSELL D.
GREER
6-5-23 [[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.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the objection. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to sustain the objection and deny confirmation of the plan.

First, the Debtor's plan is not feasible under 11 U.S.C. § 1325(a)(6). Section 2.01 of Debtor's plan provides for plan payments of \$3,500.00 for 60 months. Debtor has failed to provide admissible evidence that his plan is mathematically feasible. Calculations indicate that Debtor's plan payment will need to be at least \$3,819.00 in order for the plan to be feasible.

Second, the Debtor has failed to provide the Chapter 13 Trustee with a copy of his 2022 state income tax returns. Until these tax returns are reviewed, it cannot be determined whether Debtor's plan is feasible and pays all projected disposable income for the applicable commitment period to Debtor's general unsecured creditors. 11 U.S.C. § 1325(a)(6) and 11 U.S.C. § 1325(b)(1).

Third, the U.S. Department of Housing and Urban Development has filed a claim listing a secured portion of \$42,053.75 (Claim 1-1). The Debtor's plan and schedules do not list or provide for this claim. It cannot be determined whether the Debtor intends to pay this creditor, and if it is to be paid, how it is to be paid. This impacts whether the Debtor will be able to make all payments under the plan and comply with the plan. 11 U.S.C. § 1325(a)(6).

Fourth, based on Debtor's schedules indicating that he is an above-median income debtor, the applicable commitment period is 5 years and the Debtor is required to complete Form 122C-2. Until the Debtor provides all documentation and it is reviewed, it cannot be determined whether the plan provides that all of Debtor's projected disposable income to be received in the applicable commitment period will be applied to make payments to unsecured creditors under the plan. 11 U.S.C. § 1325(b).

Fifth, based on Debtor's schedules listing non-exempt assets and unsecured priority claims, the Debtor's plan must pay 100% to general unsecured creditors plus interest at the Federal Judgment Rate of 4.91% in order to meet the liquidation test of 11 U.S.C. § 1325(a)(4). The Debtor's plan provides 0.00% to general unsecured creditors.

Sixth, the Debtor has failed to file all pre-petition tax returns required for the four years preceding the filing of the petition pursuant to 11 U.S.C. § 1308 and § 1325(a)(9). Until these returns are reviewed, it cannot be determined whether Debtor's plan is feasible. 11 U.S.C. § 1325(a)(6).

The plan filed April 28, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

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

The court will issue an order.

5. [23-21232](#)-B-13 ERIC CONLEE
[RDG](#)-1 Charles L. Hastings

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
6-7-23 [[12](#)]

Final Ruling

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

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the objection. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to sustain the objection and deny confirmation of the plan.

Debtor filed an amended Schedule I correcting his non-filing spouse's income. Debtors Amended Schedule I now shows a monthly income of \$6,097.53 per month, which calculates to a new net income of \$806.47. Debtor's plan payment is \$450.00 per month. Accordingly, Debtor is not contributing all of his net income into the plan. Debtor's plan is not proposed in good faith under 11 U.S.C. § 1325(a)(3).

The plan filed April 17, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

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

The court will issue an order.

6. [21-20233](#)-B-13 EDISON REY PILAR
[KMM](#)-1 Arete Kostopoulos

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-9-23 [[59](#)]

TOYOTA MOTOR CREDIT
CORPORATION 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 automatic stay.

Toyota Motor Credit Corporation ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2021 Toyota Corolla (the "Vehicle"). The moving party has provided the Declaration of Debra Knight to introduce into evidence the documents upon which it bases the claim and the obligation owed by the Debtor.

The Knight Declaration states that there are three post-petition payments in default totaling \$1,118.77.

The motion for relief from automatic stay is therefore granted, the automatic stay is terminated to permit Movant to exercise its rights and remedies under applicable nonbankruptcy law, the 14-day stay of Bankruptcy Rule 4001(a)(3) is waived, and all other relief requested is denied.

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

The court will issue an order.

7. [22-21949](#)-B-13 WILFREDA LEGASPI
[PGM](#)-1 Peter G. Macaluso

MOTION TO APPROVE LOAN
MODIFICATION
6-8-23 [[39](#)]

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 permit the loan modification.

Debtor seeks court approval to incur post-petition credit. Rocket Mortgage ("Creditor"), whose claim the plan provides for in Class 4, has offered Debtor a modification with VA Modification Approval. The Debtor is required to make payments in the amount of \$4,252.19 beginning May 1, 2023, for a period of 30 years. The subject agreement will assist the Debtor in being able to make current loan payments and to keep the real property located at 1907 East Eight Mile Road, Lodi, California. The agreement will not have any direct impact on the estate, the Trustee, or any other secured creditor in this case, and/or any discharge that the Debtors may receive in this case. Debtor has separately filed a first modified plan increasing the percentage paid to general unsecured creditors from 4.67% to 100%.

The motion is supported by the Declaration of Wilfreda Legaspi. The Declaration affirms Debtor's desire to obtain the post-petition financing.

This post-petition financing is consistent with the Chapter 13 plan in this case and Debtor's ability to fund that plan. There being no objection from the Trustee or other parties in interest, and the motion complying with the provisions of 11 U.S.C. § 364(d), the motion is granted.

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

The court will issue an order.

8. [23-21257](#)-B-13 EMILIE BURTON OBJECTION TO CONFIRMATION OF
AP-2 Richard L. Sturdevant PLAN BY WILMINGTON TRUST,
Thru #9 NATIONAL ASSOCIATION
5-24-23 [[25](#)]

Final Ruling

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

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the objection. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to sustain the objection for reasons encompassed at Item 9, RDG-1, and deny confirmation of the plan.

The plan filed May 3, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

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

The court will issue an order.

9. [23-21257](#)-B-13 EMILIE BURTON OBJECTION TO CONFIRMATION OF
[RDG-1](#) Richard L. Sturdevant PLAN BY RUSSELL D GREER
6-6-23 [[30](#)]

Final Ruling

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

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the objection. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to sustain the objection and deny confirmation of the plan.

First, Debtor's Disclosure of Compensation of Attorney for Debtor at line 6 states that the agreed upon fee of \$4,000.00 does not include lien avoidances. This is contradictory to the Rights and Responsibilities signed by Debtors and their attorney. These services are included in the "No Look Fee" and should not be excluded. These services are also required by this court's local rules. See Local Bankr. R. 2017-1(a)(1).

Second, Debtor's plan provides for Citadel Servicing Corporation as a Class 1 claim with prepetition arrears in the amount of \$31,000.00 to be paid a monthly dividend of \$535.00 beginning July 2023. Wilmington Trust, National Association/Citadel Servicing Corp DBA Acra Lending filed a proof of claim listing prepetition arrears of \$43,317.37.

(Claim 2-1). The Debtor's plan is not feasible to pay the pre-petition arrears as listed in the filed claim.

The plan filed May 3, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

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

The court will issue an order.

10. [23-20464](#)-B-13 PATRICIA BROWN MOTION TO CONFIRM PLAN
[MJD](#)-2 Matthew J. DeCaminada 6-1-23 [[30](#)]

Final Ruling

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

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

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

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

The court will issue an order.

11. [23-20374](#)-B-13 NATALIE TORRES AND
[PGM-2](#) CHRISTIAN
Peter G. Macaluso

MOTION TO CONFIRM PLAN
5-31-23 [[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. Counsel for the Debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

12. [23-21174](#)-B-13 KEITH BUREN
[APN](#)-1 Eric L. Seyvertsen

OBJECTION TO CONFIRMATION OF
PLAN BY GLOBAL LENDING SERVICES
LLC
5-10-23 [[15](#)]

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). Nonetheless, the court determines that the resolution of this matter does not require oral argument. See Local Bankr. R. 9014-1(h).

The court's decision is to overrule the objection as moot.

Subsequent to the filing of Global Lending Services LLC's objection, the Debtor filed an amended plan on June 8, 2023. The confirmation hearing for the amended plan has yet to be scheduled. Nonetheless, the earlier plan filed April 12, 2023, is not confirmed.

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

The court will issue an order.

13. [21-20383](#)-B-13 JOHN SERNA
[LRR](#)-2 Len ReidReynoso

MOTION TO MODIFY PLAN
5-26-23 [[48](#)]

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.

14. [23-20686](#)-B-13 SAMUEL/DEBORAH POWERS MOTION TO CONFIRM PLAN
[MJD](#)-1 Matthew J. DeCaminada 6-1-23 [[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 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. Counsel for the Debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

15. [23-21187](#)-B-13 RICKY/CHRISTINA ORTIZ
[SKI](#)-1 Mohammad M. Mokarram

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-8-23 [[15](#)]

MERCEDES-BENZ VEHICLE TRUST
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 automatic stay.

Mercedes-Benz Vehicle Trust ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2020 Mercedes-Benz GLB250W4 (the "Vehicle"). The moving party has provided the Declaration of Star Faz to introduce into evidence the documents upon which it bases the claim and the obligation owed by the Debtor.

The Faz Declaration states that there is one pre-petition payment in default totaling \$527.53 and two post-petition payments in default totaling \$1,055.10. This Vehicle is a lease and as of June 1, 2023, the amount due under the terms of the lease is \$32,721.43. Additionally, the terms of the plan do not provide for 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.

16. [23-20088](#)-B-13 SON/SAU NGUYEN
[AVN](#)-1 Anh V. Nguyen

MOTION TO CONFIRM PLAN
5-22-23 [[27](#)]

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. Counsel for the Debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

17. [20-21794](#)-B-13 GREGORY/JANEE MOORE
[EAT](#)-1 Taras Kurta

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-9-23 [[111](#)]

LAKEVIEW LOAN SERVICING, 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). A response was filed by the Chapter 13 Trustee and opposition was filed by Debtors.

This matter will be continued to **August 8, 2023, at 1:00 p.m.**

Debtors Gregory Moore and Janee Moore state that they fell behind on plan payments due to unanticipated vehicle repair expenses. Debtors state that they have made additional catch-up payments to bring their plan payments current and request that this motion be continued to a date in August 2023 to confirm plan payments and arrears have been paid.

Lakeview Loan Servicing, LLC shall file a supplemental response by 5:00 p.m. August 4, 2023, as to whether the Debtors have brought their payments current. Similarly, the Chapter 13 Trustee shall file a supplemental response by 5:00 p.m. August 4, 2023, as to whether the Debtors are delinquent with any plan payments. The hearing on the motion for relief from automatic stay will be held on August 8, 2023, at 1:00 p.m.

The court will issue an order.

18. [23-20161](#)-B-13 MACARIO LOPEZ
[RDG](#)-2 Michael T. Reid

CONTINUED MOTION TO DISMISS
CASE
6-13-23 [[39](#)]

Final Ruling

This matter was continued from June 27, 2023, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, June 30, 2023. Nothing was filed. Therefore, the court's conditional ruling at dkt. 48, granting the motion to dismiss case, shall become the court's final decision. The continued hearing on July 11, 2023, at 1:00 p.m. is vacated.

The motion is ORDERED GRANTED for reasons stated in the minutes at dkt. 48.

The court will issue an order.

19. [20-22371](#)-B-13 VICTOR/VARNA FACHA
[RDG](#)-3 Jennifer G. Lee

CONTINUED MOTION TO DISMISS
CASE
6-9-23 [[67](#)]

Final Ruling

This matter was continued from June 27, 2023, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, June 30, 2023.

The Debtors filed a timely response explaining that they had used portions of their tax refund toward necessary expenses. Specifically, Debtors' spent \$3,500 on vehicle repairs, \$8,675 on burial expenses for Debtor's father, and \$2,800 on malfunctioning appliances. Debtors propose that the remaining funds from their tax refunds, totaling \$14,286, be turned over to the Chapter 13 Trustee. Debtors state that they are fully committed to their Chapter 13 case and are eager to address their financial obligations. Instead of seeking dismissal, they propose either modifying the existing plan or reaching a stipulation with the Trustee.

This matter is further continued and a hearing on the motion to dismiss is specially set on **August 8, 2023, at 11:00 a.m.** Debtors, Debtors' attorney, and the Chapter 13 Trustee or his attorney are ORDERED to appear person. Video and phone appearances are not permitted.

The Chapter 13 Trustee shall file and serve a reply to the Debtors' June 29, 2023, response by **July 18, 2023.**

The court will issue an order.