



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

August 12, 2025 at 11:00 a.m.

Unless otherwise ordered, all matters before the Honorable Christopher M. Klein shall be simultaneously: (1) **In Person**, at Sacramento Courtroom #35, (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**.

You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/CourtAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

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

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

August 12, 2025 at 11:00 a.m.

-
1. [25-22700](#)-C-13 NIKKI RIVERA OBJECTION TO CONFIRMATION OF
[DPC](#)-1 Seth Hanson PLAN BY DAVID P. CUSICK
7-24-25 [[12](#)]

No Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 19 days' notice was provided. Dkt. 15.

The Objection to Confirmation of Plan is xxxxxxxxxxxx

A review of the docket shows the debtor has filed a motion to dismiss the case under 11 U.S.C. § 1307(b) on July 25, 2025. Dkt. 16.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, David Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is xxxxxxxxxxxx

2. [25-23406](#)-C-13 VICTOR DISUANCO
[MC-1](#) Muoi Chea

MOTION TO VALUE COLLATERAL OF
FLAGSHIP CREDIT ACCEPTANCE LLC
7-15-25 [[8](#)]

Final Ruling: No appearance at the August 12, 2025 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 28 days' notice was provided. Dkt. 12.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Value is granted.

The debtor filed this Motion seeking to value the portion of Flagship Credit Acceptance LLC's ("Creditor") claim secured by the debtor's property commonly known as 2014 Chevrolet Silverado 1500 Crew Cab (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$19,136.00. Declaration, Dkt. 10.

The Chapter 13 Trustee filed a notice of non-opposition on July 29, 2025. Dkt. 15.

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred on January 31, 2022, which is more than 910 days prior to filing of the petition. 11 U.S.C. § 1325(a)(9) (hanging paragraph).

Upon review of the record, the court finds the value of the Property is \$19,136.00. There are \$24,000 of senior liens encumbering the Property. Therefore, Creditor's secured claim is determined to be \$19,136.00. 11 U.S.C. § 506(a).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Value Collateral and Secured Claim filed by the debtor having been presented to the court, and

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upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion pursuant Flagship Credit Acceptance LLC ("Creditor") secured by property commonly known as 2014 Chevrolet Silverado 1500 Crew Cab (the "Property") is determined to be a secured claim in the amount of \$19,136.00, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

3. [25-22510](#)-C-13 JERMAINE FORD
[DPC](#)-1 Peter Macaluso

OBJECTION TO CONFIRMATION OF
PLAN BY DAVID P. CUSICK
7-15-25 [[22](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 28 days' notice was provided. Dkt. 25.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Debtor is delinquent in plan payments;
2. Amended Schedule A/B has not been filed;
3. The plan is calculated to take 69 months to complete; and
4. Amended Schedule I has not been filed.

DEBTOR'S OPPOSITION

The debtor filed an Opposition on August 5, 2025. Dkt. 26. Debtor contends he will be current on plan payments by the hearing. Debtor asserts he has amended his schedules and is willing to increase the plan payments.

DISCUSSION

The debtor is \$5,400.00 delinquent in plan payments. Declaration, Dkt. 24. Delinquency indicates that the plan is not feasible and is reason to deny confirmation. See 11 U.S.C. § 1325(a)(6).

Because priority claims are greater than scheduled, the plan will take 69 months to complete. That is reason to deny confirmation. 11 U.S.C. § 1322(d).

Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, David Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

4. [25-21311](#)-C-13 SARA GORE
[DPC](#)-2 Pro Se

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
7-9-25 [[30](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 33.

The Objection to Claimed Exemptions is overruled without prejudice.

The Chapter 13 trustee filed this Objection objects to the debtor's claimed exemptions pursuant to California law because the debtor has claimed an exemption of property of 100% of Fair Market Value (FMV) without citing to a specific statute that allows for the claim of exemptions up to 100% of FMV.

Section 703.580 of the California Code of Civil Procedure allocates the burden of proof in state-law exemption proceedings. Cal. Civ. Proc. Code § 703.580(b); In re Tallerico, 532 B.R. 774, 780-89 (Bankr. E.D. Cal. 2015). The bankruptcy appellate panel in this circuit has concluded that "where a state law exemption statute specifically allocates the burden of proof to the debtor, Rule 4003(c) does not change that allocation." In re Diaz, 547 B.R. 329, 337 (B.A.P. 9th Cir. 2016). In this exemption proceeding in bankruptcy, therefore, the debtor bears the burden of proof.

The debtor has filed an amended Schedule C, which now claims the exemptions under Cal. Code of Civ. P. § 704.

Therefore, the trustee's Objection is overruled.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to Claimed Exemptions filed by Chapter 13 Trustee, David Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Objection is overruled without prejudice.

5. [25-22217](#)-C-13 LILLIAN DEANER
[CLH](#)-3 Cindy Lee Hill

MOTION TO CONFIRM PLAN
6-19-25 [[21](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 54 days' notice was provided. Dkt. 24.

The Motion to Confirm is denied.

The debtor filed this Motion seeking to confirm the Chapter 13 Plan (Dkt. 17) filed on May 19, 2025.

The Chapter 13 Trustee, David Cusick, filed an Opposition (Dkt. 34) on July 29, 2025, opposing confirmation on the following grounds:

1. Debtor is delinquent in plan payments;
2. The plan fails to provide for an amount to be paid after the debtor sells her home during the plan terms;
3. The plan fails to state a plan term; and
4. The plan fails to provide an amount for priority unsecured claims.

Debtor filed a response on August 5, 2024. Dkt. 41.

1. Debtor asserts she has made two plan payments;
2. Debtor can fund the plan while seeking to refinance or sell the property;
3. Debtor agrees that if the property is not sold or refinanced by the 12th month the case will be dismissed; and
4. Other than administrative claims there are no priority unsecured claims.

DISCUSSION

The debtor is \$2,130.00 delinquent in plan payments. Declaration, Dkt. 35. Delinquency indicates that the plan is not feasible and is reason to deny confirmation. See 11 U.S.C. § 1325(a)(6).

Because the plan does not state how long it will take to complete, it may take more than 60 months to complete. That is reason to deny confirmation. 11 U.S.C. § 1322(d).

Upon review of the record, the court finds the plan does not comply

with 11 U.S.C. §§ 1322 and 1325(a). The Motion is denied, and the plan is not confirmed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Confirm filed by the debtor, Lillian Deaner, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is denied, and the plan is not confirmed.

6. [25-22217](#)-C-13 LILLIAN DEANER
[DPC](#)-1 Cindy Lee Hill

MOTION FOR DENIAL OF DISCHARGE
OF DEBTOR UNDER 11 U.S.C.
SECTION 727(A)
6-30-25 [[25](#)]

Final Ruling: No appearance at the August 12, 2025 hearing is required.

The Objection has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 43 days' notice was provided. Dkt. 28.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Objection to Discharge is sustained.

David Cusick, the Chapter 13 Trustee, ("Objector") objects to Lillian Deaner's ("Debtor") discharge in this case. Objector argues that Debtor is not entitled to a discharge in the instant bankruptcy case because Debtor previously received a discharge in a Chapter 7 case.

Debtor filed a Chapter 7 bankruptcy case on August 8, 2022. Case No. 22-21978. Debtor received a discharge on November 30, 2023. Case No. 22-21978, Dkt. 133.

The instant case was filed under Chapter 13 on May 5, 2025.

11 U.S.C. § 1328(f) provides that a court shall not grant a discharge if a debtor has received a discharge "in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter." 11 U.S.C. § 1328(f)(1).

Here, Debtor received a discharge under 11 U.S.C. § 727 on November 30, 2023, which is less than four years preceding the date of the filing of the instant case. Case No. 22-21978, Dkt. 133. Therefore, pursuant to 11 U.S.C. § 1328(f)(1), Debtor is not eligible for a discharge in the instant case.

Therefore, the Objection is sustained. Upon successful completion of the instant case (Case No. 25-22217), the case shall be closed without the entry of a discharge, and Debtor shall receive no discharge in the instant case.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to Discharge filed by David Cusick, the Chapter 13 Trustee, ("Objector") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Objection to Discharge is sustained, and upon successful completion of the instant case, Case No. 25-22217, the case shall be closed without the entry of a discharge.

7. [25-22217](#)-C-13 LILLIAN DEANER
[KMM](#)-1 Cindy Lee Hill
OBJECTION TO CONFIRMATION OF
PLAN BY WILMINGTON SAVINGS FUND
SOCIETY, FSB
7-22-25 [[30](#)]

Final Ruling: No appearance at the August 12, 2025 hearing is required.

The objecting creditor having filed a Notice of Dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041, **the Objection to Confirmation was dismissed without prejudice, the matter is removed from the calendar.**

8. [25-23320](#)-C-13 STEVEN LEVINE
[SKI](#)-1 Pro Se

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-11-25 [[9](#)]

EXETER FINANCE, LLC VS.

Final Ruling: No appearance at the August 12, 2025 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 32 days' notice was provided. Dkt. 15.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion for Relief from the Automatic Stay is granted.

Exeter Finance LLC ("Movant") filed this Motion seeking relief from the automatic stay as to the debtor's 2019 Kia Sorento LX (the "Property")

Movant argues cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtor is delinquent 10 prepetition payments in the amount of \$4,544.20. Declaration, Dkt. 12.

The Chapter 13 Trustee has filed a statement of non-opposition to the motion. Dkt. 20.

DISCUSSION

Upon review of the record, the court finds cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtor is delinquent \$4,544.20 in prepetition payments.

Request for Waiver of Fourteen-Day Stay of Enforcement

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests, for no particular reason, that the court grant relief from the Rule as adopted by the United States Supreme Court. With no grounds for such relief specified, the court will not grant additional relief merely stated in the prayer.

Movant has not pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is not granted.

No other or additional relief is granted by the court.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Exeter Finance LLC ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Property, under its security agreement, loan documents granting it a lien in the asset identified as a 2019 Kia Sorento ("Property"), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Property to the obligation secured thereby.

IT IS FURTHER ORDERED that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is not waived for cause.

No other or additional relief is granted.

9. [25-23131](#)-C-13 AMY/DONALD CARSON
[SMJ](#)-1 Scott M. Johnson

MOTION TO VALUE COLLATERAL OF
ONEMAIN FINANCIAL
6-30-25 [[8](#)]

Final Ruling: No appearance at the August 12, 2025 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 43 days' notice was provided. Dkt. 12.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Value is granted.

The debtor filed this Motion seeking to value the portion of OneMain Financial's ("Creditor") claim secured by the debtor's property commonly known as 2015 Ford Fiesta (the "Property").

The debtors have presented evidence that the replacement value of the Property at the time of filing was \$3,798.00. Declaration, Dkt. 10.

The Chapter 13 Trustee filed a notice of non-opposition on July 25, 2025. Dkt. 20.

DISCUSSION

Upon review of the record, the court finds the value of the Property is \$3,798.00. There are \$14, 508.00 of senior liens encumbering the Property. Therefore, Creditor's secured claim is determined to be \$3,798.00. 11 U.S.C. § 506(a).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Value Collateral and Secured Claim filed by the debtor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion pursuant to 11 U.S.C. § 506(a) is granted, and the claim of OneMain Financial

("Creditor") secured by property commonly known as 2015 Ford Fiesta (the "Property") is determined to be a secured claim in the amount of \$3,798.00, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

10. [25-22034](#)-C-13 DAMIEN/STACEY GIACCHINO MOTION TO VALUE COLLATERAL OF
[CRG](#)-1 Carl Gustafson TRAVIS CREDIT UNION
6-19-25 [[24](#)]

Final Ruling: No appearance at the August 12, 2025 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 54 days' notice was provided. Dkt. 28.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Value is granted.

The debtors filed this Motion seeking to value the portion of Travis Credit Union's ("Creditor") claim secured by the debtor's property commonly known as 2023 Cadillac XT4 (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$25,800.00. Declaration, Dkt. 27. Debtor represents Creditor holds a claim of \$57,499.89, of which \$41,612.41 is secured by the Property and the balance represents negative equity on the vehicle debtors' traded in at the time of the purchase of the Property.

The Chapter 13 Trustee filed a statement representing Creditor has filed an amended proof of claim that matches the value of the motion. Claim No. 6-2. Therefore, the Trustee does not oppose the motion. Dkt. 36.

DISCUSSION

Upon review of the record, the court finds the value of the Property is \$25,800.00. There are \$57,499.89 of senior liens encumbering the Property. Therefore, Creditor's secured claim is determined to be \$41,612.41. 11 U.S.C. § 506(a).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Value Collateral and Secured Claim filed by the debtor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and

good cause appearing,

IT IS ORDERED that the Motion pursuant to 11 U.S.C. § 506(a) is granted, and the claim of Travis Credit Union ("Creditor") secured by property commonly known as 2023 Cadillac XT4 (the "Property") is determined to be a secured claim in the amount of \$41,612.41, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

11. [25-22034](#)-C-13 DAMIEN/STACEY GIACCHINO CONTINUED OBJECTION TO
[DPC](#)-1 Carl Gustafson CONFIRMATION OF PLAN BY DAVID
P. CUSICK
6-18-25 [[20](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 23.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Debtor is unable to make plan payments;
2. Plan relies on a motion to value collateral; and
3. Plan misclassifies the loan for the 2023 Tesla Model Y.

DISCUSSION

The plan proposes valuing the secured claim of Travis Credit Union. Before the court enters an order valuing that secured claim, the plan's feasibility is uncertain.

The plan at Section 3.08 provides that secured claims that will mature before the plan is completed shall be included as Class 2 claims.

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

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, David Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.
CMK: Hearing

12. [25-22034](#)-C-13 DAMIEN/STACEY GIACCHINO CONTINUED OBJECTION TO
[KSH](#)-1 Carl Gustafson CONFIRMATION OF PLAN BY CENLAR
FSB
6-18-25 [[16](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 19.

The Objection to Confirmation of Plan is sustained.

Creditor Cenlar FSB as Servicer for AmeriHome Mortgage Company, LLC ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that:

1. The plan fails to provide for arrearages owed to Creditor.

DISCUSSION

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

Notwithstanding whether the plan provides for the prepetition arrearage as Creditor argues, the debtor has not carried his burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by Cenlar FSB as Servicer for AmeriHome Mortgage Company, LLC, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 56 days' notice was provided. Dkt. 27.

The Motion to Confirm is denied.

The debtor filed this Motion seeking to confirm the First Amended Chapter 13 Plan (Dkt. 26) filed on June 17, 2025.

The Chapter 13 Trustee filed an Opposition (Dkt. 29) on July 29, 2025, opposing confirmation on the following grounds:

1. The plan is too uncertain because of a purported sale of inherited property.

Debtor filed a response (Dkt. 33) on August 5, 2024 asserting she holds a 1/6th interest in the property, and debtor and siblings have been preparing the property to be sold this year.

DISCUSSION

The debtor has not explained and has supplied insufficient information relating to the real property to assist the Chapter 13 Trustee in determining the value of the property or when a sale of the property will occur. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

Upon review of the record, the court finds the plan does not comply with 11 U.S.C. §§ 1322 and 1325(a). The Motion is denied, and the plan is not confirmed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Confirm filed by the debtor, Mercedita del Rosario, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is denied, and the plan is not confirmed.

14. [25-22262](#)-C-13 JAMES HUDGENS
[DPC](#)-1 Nada Dhahbi

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY DAVID
CUSICK
7-3-25 [[33](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 19 days' notice was provided. Dkt. 36.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Debtor is delinquent in plan payments;
2. Debtor's petition is inaccurate;
3. Schedule A/B does not contain a vehicle debtor owns with non-filing spouse;
4. Debtor's claim of homestead exemption is not claimed under proper state law;

5. Schedule J includes debtor's mortgage payment, which is also listed as a class 1 claim that will be paid through the plan; and

6. Debtor's attorney has opted for the "no look" but has also accepted the total amount prior to filing.

DISCUSSION

The debtor is \$1,966.00 delinquent in plan payments. Declaration, Dkt. 35. Delinquency indicates that the plan is not feasible and is reason to deny confirmation. See 11 U.S.C. § 1325(a)(6).

Local Rule 2016-1(c) states that an attorney who accepts the "No Look" fee may not accept a retainer greater than 25% nor shall be entitled to an amount greater than 50% upon confirmation of the plan. The plan's current payment structure exceeds 50% in the first 4 months of the plan.

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the

Chapter 13 Trustee, David Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

15. [25-21665](#)-C-13 JATINDER SINGH
[DPC](#)-1 Mark Wolff

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY DAVID
P. CUSICK
5-14-25 [[16](#)]

Thru #18

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 27 days' notice was provided. Dkt. 19.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The debtor has non-exempt assets are not listed in debtor's budget and not paid into the plan;
2. Debtor has failed to provide all bank statements;
3. Debtor has failed to amend Schedule A/B
4. Debtor has failed to provide proof of income.

DISCUSSION

At the prior hearing on June 10, 2025, the matter was continued to allow further time for the parties to discuss the motions to value. The trustee represented that confirmation was not possible until the motions to value have been resolved. Until the motions to value are resolved confirmation is not appropriate.

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, David Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

16. [25-21665](#)-C-13 JATINDER SINGH
WW-1 Mark Wolff

CONTINUED MOTION TO VALUE
COLLATERAL OF PATELCO CREDIT
UNION
5-20-25 [[21](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 24.

The Motion to Value is granted.

The debtor filed this Motion seeking to value the portion of Patelco Credit Union's ("Creditor") claim secured by the debtor's property commonly known as 2022 Tesla Model Y (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$27,100.00. Declaration, Dckt. 23.

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred on September 16, 2022, which is more than 910 days prior to filing of the petition. 11 U.S.C. § 1325(a)(9) (hanging paragraph).

Upon review of the record, the court finds the value of the Property is \$27,100.00. Therefore, Creditor's secured claim is determined to be \$27,100.00. 11 U.S.C. § 506(a).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Value Collateral and Secured Claim filed by the debtor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion pursuant to 11 U.S.C. § 506(a) is granted, and the claim of Patelco Credit Union ("Creditor") secured by property commonly known as 2022 Tesla Model Y (the "Property") is determined to be a secured claim in the amount of \$27,100.00, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

17. [25-21665](#)-C-13 JATINDER SINGH
[WW-2](#) Mark Wolff

CONTINUED MOTION TO VALUE
COLLATERAL OF CITIZENS BANK
5-20-25 [[25](#)]

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 28.

The Motion to Value is ~~xxxxxx~~.

The debtor filed this Motion seeking to value the portion of Citizen Banks's ("Creditor") claim secured by the debtor's property commonly known as 2019 Kenworth T680 (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$20,000.00. Declaration, Dckt. 27.

Creditor filed an opposition to the motion.

DISCUSSION

At the prior hearing, the parties represented they were going to meet and inspect the vehicle in order to determine its value.

Upon review of the record, the court finds the value of the Property is ~~xxx~~. Therefore, Creditor's secured claim is determined to be ~~\$xxx~~.
11 U.S.C. § 506(a).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Value Collateral and Secured Claim filed by the debtor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion pursuant to 11 U.S.C. § 506(a) is ~~xxxxxxxxxx~~

18. [25-21665](#)-C-13 JATINDER SINGH
[WW-3](#) Mark Wolff

CONTINUED MOTION TO VALUE
COLLATERAL OF CITIZENS BANK
5-20-25 [[29](#)]

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 32.

The Motion to Value is ~~xxxxxx~~.

The debtor filed this Motion seeking to value the portion of Citizen Banks's ("Creditor") claim secured by the debtor's property commonly known as 2020 Freightliner Cascadia (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$20,000.00. Declaration, Dckt. 31.

Creditor filed an opposition to the motion.

DISCUSSION

At the prior hearing, the parties represented they were going to meet and inspect the vehicle in order to determine its value.

Upon review of the record, the court finds the value of the Property is ~~xxx~~. Therefore, Creditor's secured claim is determined to be ~~\$xxx~~.
11 U.S.C. § 506(a).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Value Collateral and Secured Claim filed by the debtor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion pursuant to 11 U.S.C. § 506(a) is ~~xxxxxxxxxx~~

19. [25-22167](#)-C-13 ROBERT FIELDS
[DPC](#)-1 Scott Johnson

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
7-14-25 [[16](#)]

No Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 29 days' notice was provided. Dkt. 19.

The Objection to Claimed Exemptions is xxxxxxxx

An order confirming plan was signed by the Chapter 13 Trustee on July 1, 2025 and entered on July 2, 2025. Dkt. 13. The plan pays general unsecured creditors 100% dividend. Dkt. 3.

The Chapter 13 trustee filed this Objection to the debtor's claimed exemptions under Cal. Code of Civ. P. § 704.225 for amounts held in five accounts at Golden 1 Credit Union in the total amount of \$149,272.80. Trustee argues that the exemption under CCCP § 704.225 is only to the extent necessary for the support of the debtor, spouse, and dependents of the debtor and the debtor has failed to provide any documentation or evidence demonstrating the claimed amounts are necessary for the support of debtor or his dependents. Additionally, the Trustee asserts that given the debtor's and debtor's nonfiling spouse's wages, they already have enough income necessary for their support.

Section 703.580 of the California Code of Civil Procedure allocates the burden of proof in state-law exemption proceedings. Cal. Civ. Proc. Code § 703.580(b); In re Tallerico, 532 B.R. 774, 780-89 (Bankr. E.D. Cal. 2015). The bankruptcy appellate panel in this circuit has concluded that "where a state law exemption statute specifically allocates the burden of proof to the debtor, Rule 4003(c) does not change that allocation." In re Diaz, 547 B.R. 329, 337 (B.A.P. 9th Cir. 2016). In this exemption proceeding in bankruptcy, therefore, the debtor bears the burden of proof.

Therefore, the trustee's Objection is xxxxxxxx

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to Claimed Exemptions filed by Chapter 13 Trustee, David Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that Objection is xxxxxxxx

20. [25-22770](#)-C-13 CHARLES/LINDA FRIEDMAN
[AP-1](#) Peter Macaluso

OBJECTION TO CONFIRMATION OF
PLAN BY WILMINGTON SAVINGS FUND
SOCIETY, FSB
7-24-25 [[12](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 19 days' notice was provided. Dkt. 14.

The Objection to Confirmation of Plan is sustained.

Creditor Wilmington Savings Fund Society, FSB ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that:

1. The plan fails to fully provide for Creditor's claim.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on August 5 2025. Dkt. 15. Debtor asserts that 8.5% is an appropriate interest rate on Creditor's claim.

DISCUSSION

Creditor opposes confirmation on the basis that the plan proposes paying its claim at three percent interest. Creditor argues that this interest rate is outside the limits authorized by the Supreme Court in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). In *Till*, a plurality of the Court supported the "formula approach" for fixing post-petition interest rates. *Id.* Courts in this district have interpreted *Till* to require the use of the formula approach. See *In re Cachu*, 321 B.R. 716 (Bankr. E.D. Cal. 2005); see also *Bank of Montreal v. Official Comm. of Unsecured Creditors (In re American Homepatient, Inc.)*, 420 F.3d 559, 566 (6th Cir. 2005) (*Till* treated as a decision of the Court). Even before *Till*, the Ninth Circuit had a preference for the formula approach. See *Cachu*, 321 B.R. at 719 (citing *In re Fowler*, 903 F.2d 694 (9th Cir. 1990)).

The court agrees with the court in *Cachu* that the correct valuation of the interest rate is the prime rate in effect at the commencement of this case plus a risk adjustment. Because the creditor has only identified risk factors common to every bankruptcy case, the court fixes the interest rate as the prime rate in effect at the commencement of the case, 7.50%, plus a 1.25% risk adjustment, for a 8.75% interest rate.

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by
Wilmington Savings Fund Society, FSB, having been presented
to the court, and upon review of the pleadings, evidence,
arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

21. [25-22775](#)-C-13 LUCIA MORALES AND KEVIN OBJECTION TO CONFIRMATION OF
[DPC](#)-1 HENRIQUEZ PLEITEZ PLAN BY DAVID P. CUSICK
Peter Macaluso 7-21-25 [[32](#)]

Thru #25

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 22 days' notice was provided. Dkt. 35.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Plan relies on Motions to Value that have not yet been decided;
2. Plan fails to provide for the claim filed by Les Schwab Tire Centers of California, LLC (POC # 4-1).

DEBTORS' OPPOSITION

The debtors filed an Opposition on August 5, 2025. Dkt. 46. Debtor concedes the plan is not confirmable.

DISCUSSION

The plan proposes valuing three secured claims. Before the court enters an order valuing the secured claims, the plan's feasibility is uncertain.

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

The debtors have not carried their burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6). Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, David Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

22. [25-22775](#)-C-13 LUCIA MORALES AND KEVIN MOTION TO VALUE COLLATERAL OF
[PGM](#)-1 HENRIQUEZ PLEITEZ PATELCO CREDIT UNION
Peter Macaluso 7-9-25 [[12](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 16.

The Motion to Value is granted.

The debtor filed this Motion seeking to value the portion of Patelco Credit Union's ("Creditor") claim secured by the debtor's property commonly known as 2015 Nissan Xterra (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$6,000. Declaration, Dkt. 15.

The Trustee filed a response asserting that the debtor has failed to provided evidence of whether this was for a purchase money security agreement and if so whether it was incurred more than 910 days prior to filing of this case.

DISCUSSION

The debtors declare they refinanced with Creditor on or about December 2022. Therefore, the debt was not a purchase-money loan and 11 U.S.C. § 1325(a)(9) (hanging paragraph) is not applicable.

Upon review of the record, the court finds the value of the Property is \$6,000.00. Therefore, Creditor's secured claim is determined to be \$6,000.00. 11 U.S.C. § 506(a).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Value Collateral and Secured Claim filed by the debtor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion pursuant to 11 U.S.C. § 506(a) is granted, and the claim of Patelco Credit Union ("Creditor") secured by property commonly known as 2015 Nissan Xterra (the "Property") is determined to be a secured claim in the amount of \$6,000.00, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

23. [25-22775](#)-C-13 LUCIA MORALES AND KEVIN MOTION TO VALUE COLLATERAL OF
[PGM](#)-2 HENRIQUEZ PLEITEZ PATELCO CREDIT UNION
Peter Macaluso 7-9-25 [[17](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 21.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Value is granted.

The debtor filed this Motion seeking to value the portion of Patelco Credit Union's ("Creditor") claim secured by the debtor's property commonly known as 2018 Toyota Camry (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$12,044.00. Declaration, Dckt. 20.

The Chapter 13 Trustee filed a statement of non-opposition on July 21, 2025. Dkt. 38.

DISCUSSION

Upon review of the record, the court finds the value of the Property is \$12,044.00. There are approximately \$26,000.00 of senior liens encumbering the Property. Therefore, Creditor's secured claim is determined to be \$12,044.00. 11 U.S.C. § 506(a).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Value Collateral and Secured Claim filed by the debtor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion pursuant to 11 U.S.C. § 506(a) is granted, and the claim of Patelco Credit Union ("Creditor") secured by property commonly known as 2018 Toyota Camry (the "Property") is determined to be a secured claim in the amount of \$12,044.00, and the balance of the

claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

24. [25-22775](#)-C-13 LUCIA MORALES AND KEVIN MOTION TO VALUE COLLATERAL OF
[PGM](#)-3 HENRIQUEZ PLEITEZ SANTANDER CONSUMER USA INC.
Peter Macaluso 7-9-25 [[22](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 26.

The Motion to Value is denied.

The debtor filed this Motion seeking to value the portion of Santander Consumer USA Inc.'s ("Creditor") claim secured by the debtor's property commonly known as 2022 Dodge Ram 1500 Crew Cab (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$37,717.00. Declaration, Dkt. 25.

Creditor filed an opposition asserting that the debtors entered into a California Motor Vehicle Retail Installment Contract on December 12, 2022, which is 904 days before the filing of the case.

The Chapter 13 Trustee filed an opposition on July 21, 2025. Dkt. 40. The Chapter 13 Trustee represents Creditor filed a Proof of Claim with a California Motor Vehicle Retail Installment Contract attached.

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred on December 12, 2022, which is less than 910 days prior to filing of the petition. 11 U.S.C. § 1325(a)(9) (hanging paragraph).

Creditor filed Proof of Claim #3-1 on June 18, 2025 for a secured claim in the amount of \$58,802.44.

Therefore, the motion is denied.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Value Collateral and Secured Claim filed by the debtor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion pursuant to 11 U.S.C. § 506(a) is denied.

25. [25-22775](#)-C-13 LUCIA MORALES AND KEVIN OBJECTION TO CONFIRMATION OF
[SKI](#)-1 HENRIQUEZ PLEITEZ PLAN BY SANTANDER CONSUMER USA
Peter Macaluso INC.
7-15-25 [[27](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 28 days' notice was provided. Dkt. 31.

The Objection to Confirmation of Plan is sustained.

Creditor Santander Consumer USA Inc. dba Chrysler Capital ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that:

1. The plan is an impermissible cram down; and
2. The interest rate on Creditor's claim is too low.

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred on December 12, 2022, which is less than 910 days prior to filing of the petition. 11 U.S.C. § 1325(a)(9) (hanging paragraph).

Creditor opposes confirmation on the basis that the plan proposes paying its claim at 4.9 percent interest. Creditor argues that this interest rate is outside the limits authorized by the Supreme Court in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). In *Till*, a plurality of the Court supported the "formula approach" for fixing post-petition interest rates. *Id.* Courts in this district have interpreted *Till* to require the use of the formula approach. See *In re Cachu*, 321 B.R. 716 (Bankr. E.D. Cal. 2005); see also *Bank of Montreal v. Official Comm. of Unsecured Creditors (In re American Homepatient, Inc.)*, 420 F.3d 559, 566 (6th Cir. 2005) (*Till* treated as a decision of the Court). Even before *Till*, the Ninth Circuit had a preference for the formula approach. See *Cachu*, 321 B.R. at 719 (citing *In re Fowler*, 903 F.2d 694 (9th Cir. 1990)).

The court agrees with the court in *Cachu* that the correct valuation of the interest rate is the prime rate in effect at the commencement of this case plus a risk adjustment. Because the creditor has only identified risk factors common to every bankruptcy case, the court fixes the interest rate as the prime rate in effect at the commencement of the case, 7.5%, plus a 1.25% risk adjustment, for a 8.75% interest rate.

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the

Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by Santander Consumer USA Inc. dba Chrysler Capital, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

26. [25-23575](#)-C-13 LARHONDA SAUNDERS
[LS-1](#) Pro Se

MOTION TO VALUE COLLATERAL OF
ELITE V20 INVESTMENTS, LLC
7-15-25 [[10](#)]

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 28 days' notice was provided. Dkt. 13.

The Motion to Value is xxxxx.

The debtor filed this Motion seeking to value the portion of Elite V20 Investments, LLC's ("Creditor") claim secured by the debtor's property commonly known as 5321 Rockwell Road, North Highlands, CA (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$150,000.00. Declaration, Dkt. 12.

The Chapter 13 Trustee filed an opposition on July 29, 2025. Dkt. 16. The Trustee represents Creditor was listed as holding a second mortgage on the property in the amount of \$123,733.04. The Trustee asserts that Debtor has put an inconsistent value on the property on her Schedule A/B and Schedule D, and the higher value of \$309,600.00 would provide enough equity for the second lien of Creditor to attach to.

The debtor filed a response (Dkt. 21) on August 6, 2025, admitting there was a typographical error on her schedules, which she corrected. Additionally, debtor contends that she had a realtor visit the property and concluded the value of the property is no more than \$120,000.00.

DISCUSSION

Federal Rule of Bankruptcy Procedure 9014(d) provides that testimony of witnesses with respect to disputed material factual issues shall be taken in the same manner as testimony in an adversary proceeding. Because there is a disputed material fact, the Matter must be set for evidentiary hearing.

Upon review of the record, the court finds the value of the Property is xxx. There are \$163,028.47 of senior liens encumbering the Property. Therefore, Creditor's secured claim is determined to be \$xxx. 11 U.S.C. § 506(a).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Value Collateral and Secured Claim filed by the debtor having been presented to the court, and

upon review of the pleadings, evidence, arguments of
counsel, and good cause appearing,

IT IS ORDERED that the Motion pursuant to 11 U.S.C.
§ 506(a) is **xxxxxxxxxx**

27. [25-22780](#)-C-13 FLORENTINA MAZZONE-URIE
[DPC](#)-1 Peter Macaluso

OBJECTION TO CONFIRMATION OF
PLAN BY DAVID P. CUSICK
7-23-25 [[28](#)]

Thru #29

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 20 days' notice was provided. Dkt. 31.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The plan fails to fully provide for the secured claim of PHH Mortgage;
2. The petition is incomplete; and
3. Debtor has failed to amend her Statement of Financial Affairs.

DEBTOR'S RESPONSE

The debtor filed a response on July 29, 2025 stating that counsel substituted into the case and the plan is not confirmable. Dkt. 35.

DISCUSSION

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

Notwithstanding whether the plan provides for the prepetition arrearage as Trustee argues, the debtor has not carried his burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

That is reason to deny confirmation.
The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, David Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

28. [25-22780](#)-C-13 FLORENTINA MAZZONE-URIE OBJECTION TO CONFIRMATION OF
[RAS](#)-1 Peter Macaluso PLAN BY ARMANDO DYNAMITE ASSET
TRUST
7-23-25 [[25](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 20 days' notice was provided. Dkt. 27.

The Objection to Confirmation of Plan is sustained.

Creditor Armando Dynamite Asset Trust ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that:

1. Plan fails to provide for Creditor's claim.

DISCUSSION

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

Notwithstanding whether the plan provides for the prepetition arrearage as Creditor argues, the debtor has not carried his burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by Armando Dynamite Asset Trust, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

29. [25-22780](#)-C-13 FLORENTINA MAZZONE-URIE OBJECTION TO CONFIRMATION OF
[RAS](#)-2 Peter Macaluso PLAN BY HSBC BANK USA, NATIONAL
ASSOCIATION
7-24-25 [[32](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 19 days' notice was provided. Dkt. 34.

The Objection to Confirmation of Plan is sustained.

Creditor HSBC Bank USA, National Association as Trustee for Mortgage Pass-Through Certificates, MLMBS Series 2007-1 ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that:

1. Plan is not feasible.

DEBTOR'S RESPONSE

The debtor filed a response on July 29, 2025 stating that counsel substituted into the case and the plan is not confirmable. Dkt. 36.

DISCUSSION

Debtor concedes the plan is not confirmable.

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by HSBC Bank USA, National Association as Trustee for Mortgage Pass-Through Certificates, MLMBS Series 2007-1, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

30. [25-22581](#)-C-13 WILLIAM/CARRIE COTTER
[DPC](#)-1 Mark Wolff

OBJECTION TO CONFIRMATION OF
PLAN BY DAVID P. CUSICK
7-16-25 [[20](#)]

Thru #34

No Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 27 days' notice was provided. Dkt. 23.

The Objection to Confirmation of Plan is xxxxxxxxxx

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Debtors' unsecured debt is over the statutory limit for chapter 13;
2. Debtors have failed to amend Schedule I to reflect reduction in retirement contributions; and
3. Plan relies on Motions to Avoid Liens that have not yet been granted.

DEBTORS' OPPOSITION

Debtors filed an Opposition on July 22, 2025. Dkt. 24. Debtors assert the case was filed in good faith and listed the amount demanded in a lawsuit, in which debtor was a named defendant, as contingent, unliquidated, and disputed. Additionally, debtors assert they can make the plan payments and the have initiated the process to adjust retirement contributions.

The debtors also filed a Notice of Proposed Modification of Chapter 13 Plan, which proposes adding Sylvia Wiedenmaier to Class 2(c) and Class 3. Dkt. 58.

DISCUSSION

At the hearing xxxxxxxxxx

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, David Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is xxxxxxxxxx

August 12, 2025 at 11:00 a.m.

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31. [25-22581](#)-C-13 WILLIAM/CARRIE COTTER
[WW-1](#) Mark Wolff

MOTION TO AVOID LIEN OF JOHN
CAPITANIO AND NANCY CAPITANIO
7-22-25 [[27](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 31.

The Motion to Avoid Judicial Lien is granted.

This Motion requests an order avoiding the judicial lien of John Capitanio and Nancy Capitanio ("Creditor") against property of the debtor commonly known as 35 Gibsons Road, Bangor, CA, California ("Property").

A judgment was entered against the debtor in favor of Creditor in the amount of \$20,000.00. Exhibit A, Dkt. 29. An abstract of judgment was recorded with Butte County on November 3, 2021, that encumbers the Property. *Id.*

An additional judgment was entered against the debtor in favor of Creditor in the amount of \$20,000.00. Exhibit B, Dkt. 29. An abstract of judgment was recorded with Butte County on December 27, 2021, that encumbers the Property. *Id.*

Debtors assert that the two abstracts that were recorded relate to the same judgment, but the later abstract was recorded to correctly identify the Plaintiffs as John Capitanio and Nancy Capitanio.

Pursuant to Debtor's Schedule A, the subject real property has an approximate value of \$380,000.00 as of the petition date. Dkt. 1. There no consensual liens as of the commencement of this case on Debtor's Schedule D. Dkt. 1. Debtor has claimed an exemption pursuant to California Code of Civil Procedure § 704.730 in the amount of \$415,000.00 on Schedule C. Dkt. 1.

The Chapter 13 Trustee filed a statement of non-opposition to the Motion on July 29, 2025. Dkt. 47.

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 the judicial lien impairs Debtor's exemption of the real property, and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Avoid Judicial Lien pursuant to 11 U.S.C. § 522(f) filed by the debtors William Cotter and Carrie Cotter having been presented to the court, and upon

review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the judgment lien of John Capitanio, California Superior Court for Butte County Case No. CV2020-1344, recorded on November 3, 2021, Document No. 2021-0048559, with the Butte County Recorder, against the real property commonly known as 35 Gibsons Road, Bangor, California, is avoided in its entirety pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions of 11 U.S.C. § 349 if this bankruptcy case is dismissed.

IT IS FURTHER ORDERED that the judgment lien of John Capitanio and Nancy Capitanio, California Superior Court for Butte County Case No. CV2020-1244, recorded on December 27, 2021, Document No. 2021-0055129, with the Butte County Recorder, against the real property commonly known as 35 Gibsons Road, Bangor, California, is avoided in its entirety pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions of 11 U.S.C. § 349 if this bankruptcy case is dismissed.

32. [25-22581](#)-C-13 WILLIAM/CARRIE COTTER
[WW-2](#) Mark Wolff

MOTION TO AVOID LIEN OF L.A.
COMMERCIAL GROUP, INC.
7-22-25 [[32](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 36.

The Motion to Avoid Judicial Lien is granted.

This Motion requests an order avoiding the judicial lien of L.A. Commercial Group, Inc. ("Creditor") against property of the debtor commonly known as 35 Gibsons Road, Bangor, CA, California ("Property").

Judgment was entered against debtor in favor of Creditor for \$304,672.16. Exhibit C, Dkt. 35. An abstract of judgment was recorded with Butte County on February 9, 2022, that encumbers the Property. *Id.*

Pursuant to Debtor's Schedule A, the subject real property has an approximate value of \$380,000.00 as of the petition date. Dkt. 1. There are no consensual liens as of the commencement of the case on Debtor's Schedule D. Dkt. 1. Debtor has claims an exemption under California Code of Civil Procedure § 704.730 in the amount of \$415,000.00 on Schedule C. Dkt. 1.

The Chapter 13 Trustee filed a statement of non-opposition to the Motion on July 29, 2025. Dkt. 49.

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 the judicial lien impairs Debtor's exemption of the real property, and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Avoid Judicial Lien pursuant to 11 U.S.C. § 522(f) filed by the debtors William Cotter and Carrie Cotter having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the judgment lien of L.A. Commercial Group, Inc., California Superior Court for Butte County Case No. 21CV02340, recorded on February 9, 2022, Document No. 2022-0004517, with the Butte County Recorder, against the real property commonly known as 35 Gibsons Road, Bangor, California, is avoided in its entirety pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions of 11 U.S.C. § 349 if this bankruptcy case is dismissed.

33. [25-22581](#)-C-13 WILLIAM/CARRIE COTTER
[WW-3](#) Mark Wolff

MOTION TO AVOID LIEN OF GRAYBAR
ELECTRIC COMPANY, INC.
7-22-25 [[37](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 41.

The Motion to Avoid Judicial Lien is granted.

This Motion requests an order avoiding the judicial lien of Graybar Electric Company, Inc. ("Creditor") against property of the debtor commonly known as 35 Gibsons Road, Bangor, CA, California ("Property").

A judgment was entered against the debtor in favor of Creditor in the amount of \$72,068.54. Exhibit D, Dkt. 40. An abstract of judgment was recorded with Butte County on February 22, 2022, that encumbers the Property. *Id.*

Pursuant to Debtor's Schedule A, the subject real property has an approximate value of \$380,000.00 as of the petition date. Dkt. 1. There no consensual liens as of the commencement of this case on Debtor's Schedule D. Dkt. 1. Debtor has claimed an exemption pursuant to California Code of Civil Procedure § 704.730 in the amount of \$415,000.00 on Schedule C. Dkt. 1.

The Chapter 13 Trustee filed a statement of non-opposition to the Motion on July 29, 2025. Dkt. 51.

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 the judicial lien impairs Debtor's exemption of the real property, and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Avoid Judicial Lien pursuant to 11 U.S.C. § 522(f) filed by the debtors William Cotter and Carrie Cotter having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the judgment lien of Graybar Electric Company, Inc., California Superior Court for Los Angeles County Case No. 21PSV00168, recorded on February 22, 2022, Document No. 2022-0005723, with the Butte County Recorder, against the real property commonly known as 35 Gibsons Road, Bangor, California, is avoided in its entirety

pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions of 11 U.S.C. § 349 if this bankruptcy case is dismissed.

34. [25-22581](#)-C-13 WILLIAM/CARRIE COTTER
[WW-4](#) Mark Wolff

MOTION TO AVOID LIEN OF SYLVIA
WIEDENMAIER
7-22-25 [[42](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 46.

The Motion to Avoid Judicial Lien is granted.

This Motion requests an order avoiding the judicial lien of Sylvia Wiedenmaier ("Creditor") against property of the debtor commonly known as 35 Gibsons Road, Bangor, CA, California ("Property").

A judgment was entered against the debtor in favor of Creditor in the amount of \$82,894.27. Exhibit E, Dkt. 45. An abstract of judgment was recorded with Butte County on January 17, 2024, that encumbers the Property. *Id.*

Pursuant to Debtor's Schedule A, the subject real property has an approximate value of \$380,000.00 as of the petition date. Dkt. 1. There no consensual liens as of the commencement of this case on Debtor's Schedule D. Dkt. 1. Debtor has claimed an exemption pursuant to California Code of Civil Procedure § 704.730 in the amount of \$415,000.00 on Schedule C. Dkt. 1.

The Chapter 13 Trustee filed opposition to the Motion on July 29, 2025. Dkt. 53. The Trustee contends that the debtor has failed to list Creditor on Schedule F as an unsecured claim and the debt is not in the proposed plan.

Debtors filed a response proposing to modify the plan and add Creditor to Class 2(c) and Class 3.

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 the judicial lien impairs Debtor's exemption of the real property, and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Avoid Judicial Lien pursuant to 11 U.S.C. § 522(f) filed by the debtors William Cotter and Carrie Cotter having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the judgment lien of Sylvia Wiedenmaier, California Superior Court for Butte County Case No. 21CV02216, recorded on January 17, 2024, Document No. 2024-0002569, with the Butte County Recorder, against the real property commonly known as 35 Gibsons Road, Bangor, California, is avoided in its entirety pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions of 11 U.S.C. § 349 if this bankruptcy case is dismissed.

35. [25-22182](#)-C-13 TABATHA ATKINS
[SAD](#)-1 Mark Shmorgon

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-24-25 [[14](#)]

CONSUMER PORTFOLIO SERVICES,
INC. VS.

Final Ruling: No appearance at the August 12, 2025 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service was not filed with the Motion.

The Motion for Relief from the Automatic Stay is granted.

Consumer Portfolio Services, Inc. ("Movant") filed this Motion seeking relief from the automatic stay as to the debtors' 2018 Jeep Renegades (the "Property").

Movant argues cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtors are delinquent \$1,229.20 postpetition and \$2,895.60 prepetition payments. Declaration, Dkt. 16. Movant also argues cause exists pursuant to 11 U.S.C. § 362(d)(2) because the total debt secured by the Property, 7,024.88, exceeds the value of the Property, which is \$6,675.00. *Id.*

The Chapter 13 Trustee filed a statement of non-opposition on July 22, 2024. Dkt. 22. The Trustee represents Creditor is listed as a Class 3 claim in the plan that was confirmed on July 9, 2025.

DISCUSSION

As noted by the Trustee, the Confirmed Chapter 13 Plan provides for Movant's claim as a Class 3. Plan, Dkt. 3; Order, Dkt. 19. The Confirmed Plan states the following with respect the automatic stay and Class 3 claims:

(a) Upon confirmation of the plan, the automatic stay of 11 U.S.C. § 362(a) and the co-debtor stay of 11 U.S.C. § 1301(a) are (1) terminated to allow the holder of a Class 3 secured claim to exercise its rights against its collateral; (2) modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract; and (3) modified to allow the nondebtor party to an unexpired lease that is in default and rejected in section 4 of this plan to obtain possession of leased property, to dispose of it under applicable law, and to exercise its rights against any nondebtor.

Id.

Based on the plain language of the Plan, the automatic stay was

already modified to allow Movant to enforce its rights with respect to the collateral. Therefore, the relief requested by the Motion is moot.

The court recognizes that creditors may need an order specifying the continuing effect and modification of an automatic stay when state recording and filing law come into play, as well as for title insurance purposes.

The Ninth Circuit Court of Appeal has recognized the basic "discretion is the better part of valor" principle when it comes to the automatic stay. Seeking a separate order clearly specifying the scope of the relief granted in the Plan is not inappropriate.

The court grants the Motion, granting relief that under the terms of the confirmed Chapter 13 Plan, Dkt. 3, in this bankruptcy case, "all bankruptcy stays are modified to allow [Movant , and its agents and successors, as] the holder of a Class 3 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract."

No other or additional relief is granted by the court.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by Consumer Portfolio Services, Inc. ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the relief is granted pursuant to the Motion, the court confirming that "all bankruptcy stays are modified to allow [Movant , and its agents and successors, as] the holder of a Class 3 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract." Confirmed Chapter 13 Plan, Dkt. 3; Order Confirming, Dkt. 19.

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 21 days' notice was provided. Dkt. 23.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, David Cusick ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Debtor failed to appear at the Meeting of Creditors;
2. Debtor failed to provide required documents under § 521;
and
3. Debtor failed to provide required business documents.

DISCUSSION

Debtor did not appear at the Meeting of Creditors held pursuant to 11 U.S.C. § 341. Appearance is mandatory. See 11 U.S.C. § 343. Attempting to confirm a plan while failing to appear and be questioned by the Chapter 13 Trustee and any creditors who appear represents a failure to cooperate. See 11 U.S.C. § 521(a)(3). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

The debtor has not provided the trustee with all required pay advices. 11 U.S.C. § 521(a)(1)(B)(iv); FED. R. BANKR. P. 4002(b)(2)(A). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

The debtor has not provided the trustee with all required tax returns. 11 U.S.C. § 521(e)(2)(A)(i); FED. R. BANKR. P. 4002(b)(3). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

The debtor has not filed all business documents including:

- A. Questionnaire,
- B. Two years of tax returns,
- C. Six months of profit and loss statements,
- D. Six months of bank account statements, and
- E. Proof of license and insurance or written statement
that no such documentation exists.

11 U.S.C. §§ 521(e)(2)(A)(i), 704(a)(3), 1106(a)(3), 1302(b)(1), 1302(c); FED. R. BANKR. P. 4002(b)(2) & (3). Debtor is required to submit those documents and cooperate with the Chapter 13 Trustee. 11 U.S.C. § 521(a)(3). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1) & (a)(6).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, David Cusick, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

37. [25-22088](#)-C-13 MICHAEL/CAYTLYN
[DPC](#)-1 BUSTAMANTE
Pauldeep Bains

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY DAVID
P. CUSICK
6-18-25 [[13](#)]

Final Ruling: No appearance at the August 12, 2025 hearing is required.

The Objection to Confirmation is dismissed without prejudice.

The trustee having filed an Ex Parte Motion to Dismiss the pending Objection on July 31, 2025, Dkt. 23; no prejudice to the responding party appearing by the dismissal of the Objection; the trustee having the right to request dismissal of the objection pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041; and the dismissal being consistent with the opposition filed by the debtors; **the Ex Parte Motion is granted, the Trustee's Objection is dismissed without prejudice, the court removes this Objection from the calendar, and the Chapter 13 Plan filed on May 9, 2025, is confirmed.**

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

38. [25-21289](#)-A-13 MELINDA WARD
[DS-1](#) Chad Johnson

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
5-20-25 [[11](#)]

TH MSR HOLDINGS LLC VS.

Final Ruling: No appearance at the August 12, 2025 hearing is required.

This case was transferred to Dept. A on July 29, 2025. Dkt. 39.
Therefore, this matter will be heard on September 9, 2025 at 9:00 a.m.
before the Honorable Fredrick E. Clement in Sacramento Courtroom 28.

39. [25-21989](#)-C-13 WILLIAM ANRIG
[DPC](#)-1 Michael Hays

OBJECTION TO DISCHARGE BY DAVID
P. CUSICK
7-2-25 [[25](#)]

Final Ruling: No appearance at the August 12, 2025 hearing is required.

The Objection has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 41 days' notice was provided. Dkt. 28.

The Objection to Discharge is sustained.

David Cusick, the Chapter 13 Trustee, ("Objector") objects to Lillian Deaner's ("Debtor") discharge in this case. Objector argues that Debtor is not entitled to a discharge in the instant bankruptcy case because Debtor previously received a discharge in a Chapter 7 case.

Debtor filed a Chapter 13 bankruptcy case on January 4, 2024, which was then converted to a case under Chapter 7 on October 17, 2024. Case No. 24-20037. Debtor received a discharge on February 7, 2025. Case No. 24-20037, Dkt. 100.

The instant case was filed under Chapter 13 on April 25, 2025.

Debtor filed a statement of no opposition to the Trustee's Objection on July 7, 2025. Dkt. 30.

11 U.S.C. § 1328(f) provides that a court shall not grant a discharge if a debtor has received a discharge "in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter." 11 U.S.C. § 1328(f)(1).

Here, Debtor received a discharge under 11 U.S.C. § 727 on February 7, 2025, which is less than four years preceding the date of the filing of the instant case. Case No. 24-20037, Dkt. 100. Therefore, pursuant to 11 U.S.C. § 1328(f)(1), Debtor is not eligible for a discharge in the instant case.

Therefore, the Objection is sustained. Upon successful completion of the instant case (Case No. 25-21989), the case shall be closed without the entry of a discharge, and Debtor shall receive no discharge in the instant case.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to Discharge filed by David Cusick, the Chapter 13 Trustee, ("Objector") having been presented to the court, and upon review of the pleadings, evidence,

arguments of counsel, and good cause appearing,

IT IS ORDERED that Objection to Discharge is sustained, and upon successful completion of the instant case, Case No. 25-21989, the case shall be closed without the entry of a discharge.

40. [25-22489](#)-C-13 DEBORAH CHOONHAURAI
[JDS](#)-3 Pro Se

OBJECTION TO CONFIRMATION OF
PLAN BY NEWREZ LLC
6-25-25 [[16](#)]

Final Ruling: No appearance at the August 12, 2025 hearing is required.

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 48 days' notice was provided. Dkt. 21.

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

The Objection to Confirmation of Plan is overruled as moot.

Creditor NewRez LLC filed this Objection To Confirmation on June 25, 2025. Thereafter, the court sustained the Objection to Confirmation by the Chapter 13 Trustee, making this Objection moot. Dkts. 22, 28.

Therefore, the Objection is overruled.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the NewRez, LLC, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is overruled as moot.

41. [24-24192](#)-E-13 CHRISTOPHER SMITH
[SMJ](#)-4 Scott Johnson

MOTION TO SELL AND/OR MOTION
FOR COMPENSATION FOR COLDWELL
BANKER REALTY, REALTOR(S)
7-25-25 [[54](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 21 days' notice. The Proof of Service shows that only 15 days' notice was provided. Dkt. 60.

The Motion to Sell is granted.

Debtor filed this Motion pursuant to 11 U.S.C. §§ 363 and 1303 seeking to sell property commonly known as ("Property").

The proposed purchaser of the Property is 2421 Pepper Lane, Shingle Springs, CA, and the proposed purchase price is \$549,000.00.

Secured Creditor, Onslow Bay Financial LLL, filed a statement of conditional non-opposition On August 6, 2024. Dkt. 61. Creditor asserts that it consents to the sale provided that its first priority lien is paid in full from the sale proceeds.

DISCUSSION

At the time of the hearing, the court announced the proposed sale and requested that all other persons interested in submitting overbids present them in open court. At the hearing, the following overbids were presented in open court: **xxxxxxxxxxxxxxxxxx**.

Based on the evidence before the court, the court determines that the proposed sale is in the best interest of the Estate because the debtor will pay 100% of the claims.

Broker's Commission

Movant has estimated that a five percent broker's commission from the sale of the Property will equal approximately \$27,450.00. As part of the sale in the best interest of the Estate, the court permits Movant to pay the broker an amount not more than five percent commission.

Request for Waiver of Fourteen-Day Stay of Enforcement

Federal Rule of Bankruptcy Procedure 6004(h) stays an order granting a motion to sell for fourteen days after the order is entered, unless the court orders otherwise.

Movant has pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 6004(h), and this part of the requested relief is granted.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Sell Property filed by debtor Christopher John Smith ("Movant"), having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted. The debtor's counsel shall prepare an appropriate order granting the Motion, transmit the proposed order to the Chapter 13 trustee for approval as to form, and if so approved submit the proposed order to the court.

IT IS FURTHER ORDERED that Movant is authorized to pay a real estate broker's commission in an amount not more than five percent of the actual purchase price upon consummation of the sale.

IT IS FURTHER ORDERED that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 6004(h) is waived for cause.

42. [25-23696](#)-C-13 RUSSEL SAGE
[MS-1](#) Mark Shmorgon

MOTION TO VALUE COLLATERAL OF
CONSUMER PORTFOLIO SERVICES
7-21-25 [[8](#)]

Thru #43

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 22 days' notice was provided. Dkt. 11.

The Motion to Value is granted.

The debtor filed this Motion seeking to value the portion of Consumer Portfolio Services' ("Creditor") claim secured by the debtor's property commonly known as 2013 Tesla Model S Sedan (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$5,755.00. Declaration, Dkt. 10.

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred on June 29, 2021, which is more than 910 days prior to filing of the petition. 11 U.S.C. § 1325(a)(9) (hanging paragraph).

Upon review of the record, the court finds the value of the Property is \$5,755.00. There are \$22,832.41 of senior liens encumbering the Property. Therefore, Creditor's secured claim is determined to be \$5,755. 11 U.S.C. § 506(a).

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Value Collateral and Secured Claim filed by the debtor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion pursuant to 11 U.S.C. § 506(a) is granted, and the claim of Consumer Portfolio Services ("Creditor") secured by property commonly known as 2013 Tesla Model S Sedan (the "Property") is determined to be a secured claim in the amount of \$5,755.00, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 20 days' notice was provided. Dkt. 15.

The Motion to Extend the Automatic Stay is granted.

Russel Sage ("Debtor") seeks to have the provisions of the automatic stay provided by 11 U.S.C. § 362(a) extended beyond thirty days in this case. This is Debtor's second bankruptcy petition pending in the past year. Debtor's prior bankruptcy case was dismissed on July 16, 2025, after Debtor failed to make all plan payments. Order, Bankr. E.D. Cal. No. 25-20521, Dkt. 46. Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end as to Debtor thirty days after filing of the petition.

Here, Debtor states that the instant case was filed in good faith and explains that the previous case was dismissed because he incurred unexpected vehicle expenses, but he has now put those behind him.

Upon motion of a party in interest and after notice and hearing, the court may order the provisions extended beyond thirty days if the filing of the subsequent petition was filed in good faith. 11 U.S.C. § 362(c)(3)(B). As this court has noted in other cases, Congress expressly provides in 11 U.S.C. § 362(c)(3)(A) that the automatic stay **terminates as to Debtor**, and nothing more. In 11 U.S.C. § 362(c)(4), Congress expressly provides that the automatic stay **never goes into effect in the bankruptcy case** when the conditions of that section are met. Congress clearly knows the difference between a debtor, the bankruptcy estate (for which there are separate express provisions under 11 U.S.C. § 362(a) to protect property of the bankruptcy estate) and the bankruptcy case. While terminated as to Debtor, the plain language of 11 U.S.C. § 362(c)(3) is limited to the automatic stay as to only Debtor. The subsequently filed case is presumed to be filed in bad faith if one or more of Debtor's cases was pending within the year preceding filing of the instant case. *Id.* § 362(c)(3)(C)(i)(I). The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* § 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, 209-10 (2008). An important indicator of good faith is a realistic prospect of success in the second case, contrary to the failure of the first case. See, e.g., *In re Jackola*, No. 11-01278, 2011 Bankr. LEXIS 2443, at *6 (Bankr. D. Haw. June 22, 2011) (citing *In re Elliott-Cook*, 357 B.R. 811, 815-16 (Bankr. N.D. Cal. 2006)). Courts consider many factors—including those used to determine good faith

under §§ 1307(c) and 1325(a)—but the two basic issues to determine good faith under § 362(c) (3) are:

- A. Why was the previous plan filed?
- B. What has changed so that the present plan is likely to succeed?

In re Elliot-Cook, 357 B.R. at 814-15.

Debtor has sufficiently rebutted 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 court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Extend the Automatic Stay filed by Russel Sage having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted, and the automatic stay is extended pursuant to 11 U.S.C. § 362(c) (3) (B) for all purposes and parties, unless terminated by operation of law or further order of this court.