

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

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

**PRE-HEARING DISPOSITIONS COVER SHEET**

**DAY: TUESDAY**

**DATE: August 20, 2024**

**CALENDAR: 1:00 P.M. CHAPTER 13**

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

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

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

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

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

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime  
Bankruptcy Judge  
Sacramento, California

August 20, 2024 at 1:00 p.m.

- 
1. [23-23601](#)-B-13 NATALIE SMITH OBJECTION TO CLAIM OF UNCLE  
[HWW](#)-4 Hank W. Walth CREDIT UNION, CLAIM NUMBER 5  
7-20-24 [[46](#)]

**Final Ruling**

The objection has been set for hearing on at least 30 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(b)(2). When fewer than 44 days' notice of a hearing is given, parties in interest were not required to file a written response or opposition.

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

The court's decision is to **conditionally sustain the objection to Claim No. 5-1 of UNCLE Credit Union and continue the matter to August 27, 2024, at 1:00 p.m.**

The Debtor requests that the court disallow the claim of UNCLE Credit Union ("Creditor"), Claim No. 5-1. The claim is asserted to be in the amount of \$520.25. The Debtor asserts that the claim should be disallowed because the statute of limitations has run pursuant to California Code of Civil Procedure § 337.

According to the proof of claim, the underlying debt is a contract claim, most likely based on a written contract. California law provides a four-year statute of limitations to file actions for breach of written contracts. See Cal. Civ. Pro. Code § 337. This statute begins to run from the date of the contract's breach. According to the Debtor's exhibits, the last payment was received on or about August 2018, which is more than four years prior to the filing of this case. Hence, when the case was filed on October 12, 2023, this debt was time barred under applicable nonbankruptcy law, i.e., Cal. Civ. Pro. Code § 337, and must be disallowed. See 11 U.S.C. § 502(b)(1).

Based on the evidence before the court, the Creditor's claim is disallowed in its entirety.

**Conditional Nature of this Ruling**

Because the objection has been filed, set, and served under Local Bankruptcy Rule 3007-1(b)(2), any party in interest shall have until 5:00 p.m. on Friday, August 23, 2024, to file and serve an opposition or other response to the objection. See Local Bankr. R. 3007-1(b)(2). Any opposition or response shall be served on the Chapter 13 Trustee and creditor by facsimile or email.

If no opposition or response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on August 27, 2024, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the

August 20, 2024 at 1:00 p.m.

objection on August 27, 2024, at 1:00 p.m.

The court will issue an order.

2. [24-22501](#)-B-13 DULCY KELLY  
[LGT](#)-1 Pro Se

OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
7-29-24 [[17](#)]

CONTINUED TO 9/10/24 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS  
SET FOR 9/04/24.

**Final Ruling**

No appearance at the August 20, 2024, hearing is required. The court will issue an  
order.

3. [24-22514](#)-B-13 CHARLES CHILD AND DORETTE OBJECTION TO CONFIRMATION OF  
[LGT](#)-1 CARLSON PLAN BY LILIAN G. TSANG  
Mikalah Liviakis 8-1-24 [[17](#)]

**Final Ruling**

The Chapter 13 Trustee having filed a notice of dismissal of its objection, the objection is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

There being no other objection to confirmation, the plan filed June 7, 2024, will be confirmed.

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

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

The court will issue an order.

4. [24-22619](#)-B-13 ROBIN CUNNINGHAM OBJECTION TO CONFIRMATION OF  
[LGT](#)-1 Seth L. Hanson PLAN BY LILIAN G. TSANG  
7-29-24 [[14](#)]

**Final Ruling**

The bankruptcy case having been converted to one under chapter 7, the objection to confirmation is overruled as moot.

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

The court will issue an order.

5. [24-22621](#)-B-13 SHAYLA BARNES  
[PGM](#)-1 Peter G. Macaluso

MOTION TO VALUE COLLATERAL OF  
AIS PORTFOLIO SERVICES, LLC  
7-22-24 [[22](#)]

### **Final Ruling**

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

The court's decision is to value the secured claim of AIS Portfolio Services, LLC (Capital One Auto Finance) at \$8,000.00.

Debtor moves to value the secured claim of AIS Portfolio Services, LLC (Capital One Auto Finance) ("Creditor"). Debtor is the owner of a 2015 Volkswagen Passat ("Vehicle"). The Debtor seeks to value the Vehicle at a replacement value of \$8,000.00 as of the petition filing date. As the owner, Debtor's opinion of value is evidence of the asset's value. See Fed. R. Evid. 701; see also *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

### **Proof of Claim Filed**

The court has reviewed the Claims Registry for this bankruptcy case. Claim No. 8-1 filed by Capital One Auto Finance, a division of Capital One, N.A. is the claim which may be the subject of the present motion.

### **Discussion**

The lien on the Vehicle's title secures a purchase-money loan incurred on November 2, 2021, which is more than 910 days prior to filing of the petition, to secure a debt owed to Creditor with a balance of approximately \$10,806.87 based on Claim No. 8-1. Therefore, the Creditor's claim secured by a lien on the asset's title is under-collateralized. The Creditor's secured claim is determined to be in the amount of \$8,000.00. See 11 U.S.C. § 506(a). The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a) is granted.

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

The court will issue an order.

6. [23-23322](#)-B-13 MATTHEW/TERESA LOVATO AMENDED MOTION TO MODIFY PLAN  
[MDA](#)-2 Mary D. Anderson 7-15-24 [[42](#)]

**Final Ruling**

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

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

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

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

The court will issue an order.



7. [24-23132](#)-B-13 DESIRE NAVEST  
[MS-1](#) Mark Shmorgon

MOTION TO VALUE COLLATERAL OF  
ONEMAIN FINANCIAL GROUP, LLC  
7-18-24 [[9](#)]

### **Final Ruling**

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

The court's decision is to value the secured claim of OneMain Financial Group, LLC at \$8,658.00.

Debtor moves to value the secured claim of OneMain Financial Group, LLC ("Creditor"). Debtor is the owner of a 2016 Hyundai Elantra SE Sedan 4D ("Vehicle"). The Debtor seeks to value the Vehicle at a replacement value of \$8,658.00 as of the petition filing date. As the owner, Debtor's opinion of value is evidence of the asset's value. See Fed. R. Evid. 701; see also *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004). The Vehicle is encumbered with a secured lien in the amount of \$24,973.98.

### **No Proof of Claim Filed**

The court has reviewed the Claims Registry for this bankruptcy case. No proof of claim has been filed by Creditor for the claim to be valued.

### **Discussion**

The lien on the Vehicle's title does not secure a purchase-money loan and instead was a lien against the Vehicle in exchange for a loan refinance. Because of this, the requirement that the loan be incurred more than 910 days prior to filing of the petition is not applicable. The Creditor's claim secured by a lien on the asset's title is under-collateralized. The Creditor's secured claim is determined to be in the amount of \$8,658.00. See 11 U.S.C. § 506(a). The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a) is granted.

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

The court will issue an order.

8. [23-23845](#)-B-13 TERRY FASY  
[PGM](#)-2 Peter G. Macaluso

MOTION TO MODIFY PLAN  
7-16-24 [[65](#)]

### **Final Ruling**

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

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

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

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

The court will issue an order.

9. [24-21445](#)-B-13 NINEFF KOOCHOU  
[JCK](#)-1 Gregory J. Smith

MOTION TO CONFIRM PLAN  
6-25-24 [[25](#)]

### **Final Ruling**

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

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

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

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

The court will issue an order.

10. [24-23050](#)-B-13 NERY LIMON  
[CS-1](#) G. Michael Williams

AMENDED MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
7-29-24 [[19](#)]

COUNTY OF SAN JOAQUIN VS.

### **Final Ruling**

Before the court is a motion for relief from the automatic stay of 11 U.S.C. § 362(a) filed by the San Joaquin County Treasurer – Tax Collector (the “County”). Debtor Nery Limon (“Debtor”) filed an opposition. The County filed a reply.

The court has reviewed the motion, opposition, reply, and all related declarations and exhibits. The court has also reviewed and takes judicial notice of the dockets in this chapter 13 case and in the 9 other bankruptcy cases the Debtor has filed since 2015. See Fed. R. Evid. 201(c). The court has determined that oral argument is not necessary and will not assist in the decision-making process. See Local Bankr. R. 1001-1(f), 9014-1(h).

The court’s decision is to deny the motion as moot.

This is the second bankruptcy case the Debtor has had pending this year. Case number 24-21959 was filed on May 7, 2024, and was dismissed on June 5, 2024, when the Debtor failed to timely file documents. This case was filed a little over one month later, on July 12, 2024.

In a second bankruptcy case pending within a one-year period of a prior bankruptcy case, pursuant to the provisions of 11 U.S.C. § 362(c)(3)(A), the automatic stay terminates by operation of law 30 days after filing of the petition. However, upon motion of a party in interest, and after notice and hearing completed within 30 days of the petition date, the court may order the automatic stay extended beyond 30 days if the filing of the subsequent petition was in good faith. See 11 U.S.C. § 362(c)(3)(B).

Notably, no motion to extend the automatic stay was filed, noticed, and heard within the first 30 days of this case. With the petition filed on July 12, 2024, the 30-day period expired on Monday, August 12, 2024. So too did the automatic stay in its entirety. See e.g., 11 U.S.C. § 362(c)(3)(A); *Reswick v. Reswick (In re Reswick)*, 446 B.R. 362 (9th Cir. BAP 2011) (stay terminates in its entirety); *Simmons v. HSBC Bank National Assn. (In re Simmons)*, 2024 WL 1479691, \*2 (9th Cir. BAP April 5, 2024) (“Ms. Simmons’s prior chapter 13 case was dismissed on May 27, 2022. She filed the instant chapter 13 case less than one year later on March 1, 2023, and did not request an extension of the automatic stay. Therefore, the automatic stay terminated as to her, her property, and property of the estate on the 30th day after the petition date[.]”); see also *In re Galindo*, case no. 22-21557 (Bankr. E.D. Cal. Oct. 4, 2022), dkt. 58.

Having expired in its entirety by operation of law, there currently is no longer any automatic stay in place. See 11 U.S.C. § 362(j). There is therefore nothing for this court to terminate. See *Khabushani v. Anderson (In re Khabushani)*, 2021 WL 2562113 at \*2 (9th Cir. BAP June 22, 2021) (abuse of discretion to terminate the automatic stay terminated by operation of law). The County’s motion is moot.

Assuming without deciding that the court could still grant in rem relief under § 362(d)(4) when the automatic stay has terminated by operation of law and there is no longer any automatic stay for the court to terminate, the County’s request for in rem relief under § 362(d)(4) would be denied. Whether it is confirmable or not remains to be seen, but the Debtor is represented by counsel and on August 6, 2024, she filed a Chapter 13 Plan (“Plan”) that proposes to pay the County’s tax debt. See dkt. 31. The court is therefore not convinced that the Debtor filed this case as part of a scheme to hinder, delay, or defraud the County or its ability to recover from the Debtor for her tax obligations. The County may not like or agree with the Debtor’s proposed payment, but payment is nevertheless proposed. That said, the court will set a plan confirmation hearing.

Should the Debtor request a voluntary dismissal of this chapter 13 case, the Debtor is

**August 20, 2024 at 1:00 p.m.**

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on notice that a request for voluntary dismissal following the County's motion for relief from the automatic stay will result in dismissal with a six-month bar to re-filing any single or joint bankruptcy case. See 11 U.S.C. § 109(g)(2). The court will consider a longer re-filing bar should there be any transfer or disposition - or attempt to do either - of the real property subject to the County's tax lien - or any interest therein - without further order of this court prior to any dismissal. See 11 U.S.C. § 349(a).

The motion will be ORDERED DENIED AS MOOT.

It is FURTHER ORDERED that a hearing to consider confirmation of the plan is set on October 15, 2024, at 1:00 p.m.

FURTHER ORDERED that the Debtor shall file, set, and serve a motion to confirm the plan consistent with the confirmation hearing date and the applicable Local Rules.

The court will issue an order.

11. [24-22557](#)-B-13 KENNETH/SUSAN BURNS  
[LGT](#)-1 Steven A. Alpert

OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G TSANG  
7-29-24 [[15](#)]

**Final Ruling**

The Chapter 13 Trustee having filed a notice of dismissal of its objection, the objection is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

There being no other objection to confirmation, the plan filed June 7, 2024, will be confirmed.

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

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

The court will issue an order.

12. [24-22459](#)-B-13 JAMIE BRIDGEMAN  
[DKF](#)-1 Michael K. Moore  
**Thru #14** OBJECTION TO CONFIRMATION OF  
PLAN BY PATRICIA OMALLEY, AS  
TRUSTEE OF THE PATRICIA A.  
OMALLEY SEPARATE PROPERTY  
TRUST, DATED 11-19-2010  
7-19-24 [[27](#)]

CONTINUED TO 9/03/24 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS  
SET FOR 8/21/24.

**Final Ruling**

No appearance at the August 20, 2024, hearing is required. The court will issue an  
order.

13. [24-22459](#)-B-13 JAMIE BRIDGEMAN  
[LGT](#)-1 Michael K. Moore  
OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
7-18-24 [[23](#)]

CONTINUED TO 9/03/24 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS  
SET FOR 8/21/24.

**Final Ruling**

No appearance at the August 20, 2024, hearing is required. The court will issue an  
order.

14. [24-22459](#)-B-13 JAMIE BRIDGEMAN  
[RAS](#)-1 Michael K. Moore  
OBJECTION TO CONFIRMATION OF  
PLAN BY WELLS FARGO BANK, N.A.  
7-18-24 [[20](#)]

CONTINUED TO 9/03/24 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS  
SET FOR 8/21/24.

**Final Ruling**

No appearance at the August 20, 2024, hearing is required. The court will issue an  
order.

15. [23-22562](#)-B-13 KENNETH/SOPHIA MOORE  
[LBF](#)-5 Lauren Franzella

MOTION TO CONFIRM PLAN  
7-1-24 [[85](#)]

### **Final Ruling**

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed by creditor HSBC Bank USA, N.A. ("Creditor") and the Chapter 13 Trustee. A response was filed by the Kenneth Moore and Sophia Moore ("Debtors") as to the issues raised by Creditor.

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

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

Irrespective of the objections raised by HSBC Bank USA, N.A. and the response filed by Debtors, the fourth amended plan is no longer feasible. Section 7 Nonstandard Provisions of the plan provides for a monthly plan payment of \$5,235.00 beginning July 25, 2024. Because Debtors failed to make the plan payment as proposed, the fourth amended plan is no longer feasible.

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

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

The court will issue an order.



16. [24-22285](#)-B-13 MARIO/NANCY CASILLAS  
[LGT](#)-1 Keith R. Wood

OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
7-19-24 [[18](#)]

### **Final Ruling**

The *initial* Chapter 13 Plan filed May 24, 2024, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to August 27, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtors' plan is not feasible. Debtors' plan provides for attorney fees in the amount of \$6,888.00 to be paid at a monthly dividend of \$700.00. Pursuant to Local Bankruptcy Rule 2016-1(c)(4)(B) the payment flat fees must be paid in equal monthly installments over the term of the plan. Debtors' plan is a 60-month plan. A monthly dividend of \$114.80 is necessary to pay the claim in full within Debtors' 60-month plan term.

Second, Debtors' plan is not feasible under 11 U.S.C. §1325(a)(6). Debtors' plan provides for the Golden One Credit Union and LoanDepot in Class 1 of the plan. However, Debtors do not indicate the amount of arrears owed or the arrearage dividends. Without providing a dollar amount owed to each creditor, the Trustee cannot determine if the plan is feasible.

Third, Debtors' Schedule I at line 5C shows a total payroll deduction of \$250.00 per month for voluntary contribution to a retirement plan. This expense is not reasonable or necessary.

Fourth, Debtors' Schedule J at Line 17c lists a 457 Retirement Loan Repayment of \$568.59. Debtors testified that this loan will complete within the Debtors' 60-month plan term. Debtors' plan payment does not increase accordingly.

Fifth, the petition fails to list Joint Debtor's middle name and must be amended accordingly.

The plan filed May 24, 2024, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

### **Conditional Nature of this Ruling**

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), party in interest shall have until 5:00 p.m. on August 23, 2024, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtors, the Debtors' attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on August 27, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on August 27, 2024, at 1:00 p.m.

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

The court will issue an order.

17. [24-22989](#)-B-13 DANIEL GAY AND ELVIA MOTION FOR RELIEF FROM  
[SKI](#)-1 CERNA-GAY AUTOMATIC STAY  
Arete Kostopoulos 7-17-24 [[10](#)]  
AMERICAN CREDIT ACCEPTANCE  
VS.

**Final Ruling**

The Debtors and creditor American Credit Acceptance entered into a stipulation to continue the hearing to October 1, 2024, at 1:00 p.m. The motion for relief from automatic stay is therefore continued.

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

The court will issue an order.

### **Final Ruling**

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

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

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

First, Debtor has failed to file a Declaration in support of the motion, as required by Local Bankruptcy Rule 3015-1(d)(1) and 11 U.S.C. §1324(a).

Second, Debtor and Debtor's attorney have filed a Rights & Responsibilities indicating that payments of attorney fees are to be made pursuant to Local Bankruptcy Rule 2016-1(c) or Debtor's plan. However, no box has been checked in Section 3.05. As an election was not indicated in the plan, Debtor's attorney must file a motion for allowance of fees.

Third, Specialized Loan Servicing LLC for Deutsche Bank National Trust has filed a secured Claim 3-1 in the amount of \$163,229.11. The Nonstandard Provisions at Section 7.02 of the plan state Debtor proposes to file a Motion to Avoid the Lien of the second mortgage holder Deutsche Bank National Trust Co. Debtor's petition was filed on June 9, 2023, the creditor's claim was filed on August 16, 2023, and the second amended plan was filed on March 28, 2024. To date, no motion to avoid the lien has been set for hearing. Debtor has had ample opportunity to file the motion or otherwise explain her failure to do so. The plan is not feasible and is not proposed in good faith. 11 U.S.C. § 1325(a)(6), 11 U.S.C. § 1325(a)(3).

Fourth, the Nonstandard Provisions of the plan at Section 7.01 proposes to directly pay the first mortgage holder Select Portfolio Servicing Inc. post-petition mortgage payments for the months of July 2023 to March 2024. This is contradictory to Section 3.07 of the plan, which provides that Class 1 secured claims shall be paid in equal monthly installments, and the Trustee shall maintain all post-petition monthly payments to the holder of each Class 1 claim. Pursuant to the original plan filed, the Trustee has disbursed postpetition mortgage payments to the Class 1 claim for the months of August through October 2023 and December through March 2024.

Fifth, the plan provides for a monthly dividend of \$1,037.00 to pre-petition arrears in the amount of \$62,240.66. The total amount of funds on hand as of August 6, 2024, is \$2,416.38 with an additional payment of \$2,760.00 due by August 25, 2024. Currently, there are not sufficient funds on hand to disburse 14 payments of \$1,037.00 or \$14,518.00 to the mortgage creditor for pre-petition arrears (July 2023 through August 2024). Therefore, Debtor's plan is not feasible. 11 U.S.C. § 1325(a)(6).

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

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

The court will issue an order.

19. [24-21495](#)-B-13 JOSEPH/JAMEELA BROWN  
[SLH](#)-1 Seth L. Hanson

MOTION TO CONFIRM PLAN  
7-3-24 [[31](#)]

### **Final Ruling**

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

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

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

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

The court will issue an order.