UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Department B – Courtroom #13
Fresno, California
Hearing Date: Wednesday, August 27, 2025

Unless otherwise ordered, all matters before the Honorable René Lastreto II, shall be simultaneously: (1) **In Person** at, Courtroom #13 (Fresno hearings only), (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 or their attorneys 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/attorney 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 and their attorneys who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest and/or their attorneys 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 who wish to attend by ZoomGov may only listen in to the hearing using the Zoom telephone number. Video participation or observing are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may attend in person unless otherwise ordered.

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.

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INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

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, and all parties will need to appear at the hearing unless otherwise ordered.** 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**. 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 14 days of the final hearing on the matter.

Post-Publication Changes: The court endeavors to publish its rulings as soon as possible. However, calendar preparation is ongoing, and these rulings may be revised or updated at any time prior to 4:00 p.m. the day before the scheduled hearings. Please check at that time for any possible updates.

9:30 AM

1. 25-10925-B-13 **IN RE: JORGE GONZALEZ AND NANCY RAMIREZ**
JRL-4

MOTION TO CONFIRM PLAN
7-7-2025 [52]

NANCY RAMIREZ/MV
JERRY LOWE/ATTY. FOR DBT.
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to September 24, 2025, at 9:30 a.m.

ORDER: The court will issue an order.

Jorge Gonzalez and Nancy Ramirez ("Debtors") move for an order confirming the *Second Modified Chapter 13 Plan* dated July 7, 2025. Docs. #52, #56. No plan has been confirmed so far. The 60-month plan provides as follows:

1. Plan payments will be $2,280.32 for months 1-2, $6,501.47 in months 3-23, and $6,775.25 in months 24-60.
2. Outstanding attorneys' fees in the amount of $10,000.00 will be paid through the plan as follows: $0.00 per month during months 1-23 and $270.27 per month during 24-60.
3. Secured Creditors to be paid as follows:
    a. PNC Bank (Class 1. Mortgage on 20347 Thermal Road, Sanger, CA). Arrears of $7,170.07 at 0.00% to be paid at $311.75 per month. Post-petition monthly payments of $0.00 in months 1-2 and $3,803.14 in months 3-60.
    b. Westlake Financial Services (Class 2A. 2017 Chevy Silverado. PMSI.) $22,232.75 at 8.50% to be paid at $456.20 per month.
    c. FM Financial (Class 2A. 2021 GMC Yukon Denali. PMSI) $61,848.50 at 8.50% to be paid at $1,275.00 per month.
    d. Roundpoint Mortgage Servicing (Class 4. Mortgage on 801 Hoag Ave., Sanger, CA.) $1,069.42. Debtor is on title but does not live at this home. Debtor's mother resides at this home. Debtor's parents made the down payment and all monthly prepetition payments. $1,069.42 to be paid by Debtor's mother.
    e. Priority unsecured claims totaling $14,163.00 to be paid at 100%.
    f. General unsecured claims of approximately $303,514.17 to be paid at 0.00%.

Doc. #56. Chapter 13 trustee Lilian G. Tsang ("Trustee") timely objected to confirmation of the plan for the following reason(s):

1. Debtors' most recent Schedule J filed on May 18, 2025, reflects a monthly income that is inadequate to meet the proposed monthly plan payment. Debtors must file an Amended/Supplemental Schedule J.
2. Debtors have moved creditor PNC Bank, a mortgage holder, from Class 4 to Class 1 effective in month 3. Debtors must provide verification that they paid the mortgage directly for the first two post-petition mortgage payments when the creditor was still in Class 4.

Doc. #61. On August 18, 2025, Debtors filed an Amended Schedule J indicating that their net monthly income was $6,776.26, which is sufficient to make plan payments. Doc. 63. This appears to resolve Trustee's Objection #1. Trustee's Objection #2 remains unaddressed.

This motion to confirm plan will be CONTINUED to **September 24, 2025, at 9:30 a.m.** Unless this case is voluntarily converted to chapter 7, dismissed, or all objections to confirmation are withdrawn, the Debtors shall file and serve a written response to the objections no later than fourteen (14) days before the continued hearing date. The response shall specifically address each issue raised in the objection(s) to confirmation, state whether each issue is disputed or undisputed, and include admissible evidence to support the Debtor's position. Any replies shall be filed and served no later than seven (7) days prior to the hearing date.

If the Debtors elect to withdraw the plan and file a modified plan in lieu of filing a response, then a confirmable, modified plan shall be filed, served, and set for hearing not later than seven (7) days before the continued hearing date. If the Debtors do not timely file a modified plan or a written response, the objection will be sustained on the grounds stated, and the motion will be denied without further hearing.

2. 21-11540-B-13 **IN RE: TOM/HELEN EVANS**
PBB-2

MOTION TO MODIFY PLAN
7-15-2025 [44]

HELEN EVANS/MV
PETER BUNTING/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied as moot.

ORDER: The court will prepare the order.

On July 23, 2025, the Debtors filed a Third Amended Chapter 13 Plan. Doc. #56. Accordingly, this *Motion to Confirm* the Amended Chapter 13 Plan dated July 15, 2025, will be DENIED as moot.

3. 21-11540-B-13 **IN RE: TOM/HELEN EVANS**
PBB-3

MOTION TO MODIFY PLAN
7-23-2025 [51]

HELEN EVANS/MV
PETER BUNTING/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

Tom and Helen Evans ("Debtors") seek an order confirming the *Third Modified Chapter 13 Plan* dated July 23, 2025. Docs. #51, #56. The current plan dated June 4, 2025, was confirmed on July 14, 2025. Doc. #43.

Under the current plan, Debtors were to pay $700 a month for 49 months. Doc. #38. Under the proposed modified plan, Debtors' aggregate payment for months 1-8 will be $31,800.00, and Debtor's payment for month 49 will be $700.00 for 1 month. *Id.* The plan is otherwise unchanged. Debtors declare that this modification is intended to cure a deficiency in plan payments. Doc. #53.

This motion was set for hearing on 35 days' notice as required by Local Rule of Practice ("LBR") 3015-1(d)(1). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to

the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

No party in interest has responded, and the defaults of all non-responding parties are entered.

This motion will be GRANTED. The confirmation order shall include the docket control number of the motion and reference the plan by the date it was filed.

4. 25-12367-B-13 **IN RE: KATHERINE SCONIERS STANPHILL**
LGT-1

MOTION TO DISMISS CASE AND/OR MOTION TO BAR
7-24-2025 [13]

LILIAN TSANG/MV

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The court will issue an order.

The Chapter 13 trustee in the above-styled case ("Trustee") asks the court to dismiss this case under 11 U.S.C. §§ 349 and 1307 with a bar for future filings for a minimum of two years and assessing sanctions for future filings on the grounds that Katherine Jessetta Sconiers Stanphill ("Debtor") is a serial filer and that this case was filed in bad faith. Doc. #13. This is the sixth petition filed by Debtor since 2023, and all her prior cases were dismissed prior to confirmation. *Id.*

Debtor did not oppose this motion. The motion will be GRANTED without oral argument for cause shown.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the Debtor, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the

hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

Trustee has submitted a Declaration outlining Debtor's past filings and their dispositions. Doc. #15. It appears that since 2023, Debtor has filed for bankruptcy in five prior cases:

Case	**Filed**	**Dismissed**	
23-11046 (Ch. 13)	5/17/23	9/8/23	Represented by counsel
23-11676 (Ch. 13)	8/1/23	5/16/24	Represented by counsel
24-11253 (Ch. 13)	5/8/24	10/29/24	Pro se
24-12315 (Ch. 13)	8/12/24	1/3/25	Pro se
25-10009 (Ch. 13)	1/2/25	6/16/24	Pro se
25-12367 (Ch. 13)	7/16/25	Ongoing	Pro se

Doc. #13; Docket generally. In the first two cases, Debtor was represented by counsel, but in the next four, which includes this case, she filed pro se. *Id.* Only the second case resulted in a confirmed plan, but it was dismissed for failure to make plan payments. *See Case No. 23-11676, Doc. #62.* The other four prior cases were dismissed for failure to pay required court fees. Doc. #13. The current case is currently set for hearing on September 10, 2025, on an Order to Show Cause for failure to pay required court fees. Doc. #21.

Generally, dismissals of individual bankruptcy cases are governed by § 349 and § 109(g) of the Code. Section 349 states that dismissal of a bankruptcy does not "prejudice the debtor with regard to filing of a subsequent petition under this title, except as provided in section 109(g)." 11 U.S.C. § 349(a). Section 109(g) bars individuals from being debtors under the Code who have, within the preceding 180 days, had a prior case dismissed "for willful failure of the debtor to abide by orders of the court or to appear before the court in proper prosecution of the case." 11 U.S.C. § 109(g). Viewed in tandem, these Code provisions state the general proposition that a court may only impose a 180-day bar on refiling by a debtor after dismissing the debtor's case with a finding of willful failure to abide by the court's orders, which certainly seems to be the case here.

However, § 349 also implicitly empowers the court, *for cause*, to order the dismissal of a case and to impose a bar on the filing of any

subsequent petition for periods longer than 180 days, or even permanently. *Leavitt v. Soto (In re Leavitt)*, 171 F.3d 1219, 1223 (9th Cir. 1999)(*superseded on other grounds as recognized by In re Burkes*, Nos. 21-23813-rmb, 22-20431-rmb, 2023 Bankr. LEXIS 2401, at *17 (Bankr. E.D. Wis. Sep. 29, 2023). *See also In re Duran v. Rojas*, 630 B.R. 797 (B.A.P. 9th Cir. 2021).

As the *Leavitt* court noted, the Code does not specifically define "cause" in the context of bankruptcy dismissal. *Leavitt*, 171 F.3d at 1224. However, the Ninth Circuit went on to note that "bad faith" is a "cause" for dismissal under § 1307(c), and the court reasoned that "bad faith based on egregious behavior can justify dismissal with prejudice." *Id.* To reach such justification, *Leavitt* continues, a bankruptcy court should consider "the totality of the circumstances," taking into account the following factors: (1) whether the debtor "misrepresented facts in his [petition or] plan, unfairly manipulated the Bankruptcy Code, or otherwise [filed] his Chapter 13 [petition or] plan in an inequitable manner"; (2) the debtor's history of filings and dismissals"; (3) whether "the debtor only intended to defeat state court litigation"; and (4) whether egregious behavior is present. *Id.* (citations omitted).

"[T]he court is not obligated to count the four *Leavitt* factors as though they present some sort of a box-score but rather is to consider them all and weigh them in judging the 'totality of the circumstances.'" *In re Lehr*, 479 B.R. 90, 98 (Bankr. N.D. Cal. 2012). The court considers the *Leavitt* factors under the "preponderance of the evidence" standard. *In re Dores*, 2017 Bankr. LEXIS 1539, at *14 (Bankr. E.D. Cal. June 7, 2017).

Here, Debtor's history of filings and dismissals clearly demonstrate an unfair manipulation of the Bankruptcy Code. Prior to the instant case, Debtor has filed for chapter 13 *five* times in just twenty-six months.

Finally, the court must consider whether Debtor's conduct is "egregious" and has little reservation about making such a finding. By way of comparison, the court in *Davis v. Brest-Taylor* applied the *Leavitt* factors and found the debtor's conduct egregious in part because of "[t]he sheer numerosity of filings." 572 B.R. 750, 756 (Bankr. E.D. Cal. 2017). In *Leavitt*, the debtor had filed six bankruptcies within the preceding two years, all of which had been dismissed for failure to pay fees or make payments or perform other obligations under the Bankruptcy Code. *Davis*, 572 B.R. at 756. The Debtor in the instant case has filed six bankruptcies in twenty-six months (including this one), and the court has little difficulty finding such conduct to be egregious.

Based on the foregoing analysis, the *Leavitt* factors clearly militate towards a finding of bad faith under § 349 on the part of this Debtor that is sufficient to justify the requested two-year bar against refiling. Accordingly, it is hereby ordered that:

1. This motion is GRANTED.
2. This Chapter 13 case will be DISMISSED FOR CAUSE AND WITH PREJUDICE.
3. Debtor Katherine Jessetta Sconiers Stanphill is hereby barred from filing a bankruptcy petition without leave of the court for a period of two (2) years from the entry of this order.
4. Leave of court shall be obtained by Debtor Katherine Jessetta Sconiers Stanphill attaching to a future bankruptcy petition, while this order is effective, a declaration under oath stating her specific reasons for filing the petition and this order. The petition, declaration, and this order shall be presented to the Chief Judge of the United States Bankruptcy Court for the Eastern District of California. Said petition shall be filed only if permitted by the Chief Bankruptcy Judge.
5. Any bankruptcy case filed in violation of this order by Debtor shall be deemed null and void and dismissed without notice to Debtor.
6. If Debtor violates this Order by filing a bankruptcy petition within the two (2) years following the entry of this order without permission from the court, the court will issue an order to show cause why further sanctions including compensatory and coercive monetary sanctions should not be awarded against Debtor.

5. 25-10887-B-13 **IN RE: ERIC/REBECCA GRIMM**
JRL-4

MOTION TO CONFIRM PLAN
7-15-2025 [60]

REBECCA GRIMM/MV
JERRY LOWE/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: Order preparation to be determined at the hearing.

Eric and Rebecca Grimm ("Debtors") move for an order confirming the *First Modified Chapter 13 Plan* dated July 15, 2025. Doc. #64. No plan has been confirmed so far. The 60-month plan proposes the following terms:

1. Plan payments of $3,046.21 per month.
2. Outstanding attorneys' fees of $10,000.00 to be paid through the plan.
3. Secured Creditors to be provided for as follows:

a. Nuvision Federal Credit Union ("Nuvision")(Class 2A. 2021 Volkswagen. PMSI). $31,348.00 at 6.54% with a monthly dividend of $613.95.
b. Nuvision (Class 2B. 2018 Chevrolet Equinox. PMSI). Creditor's claim is $16,581.00. Debtors propose to pay $13,500.00 at 4.99% with a monthly dividend of $323.05.
c. Sunnova Energy International, Inc. ("Sunnova)(Class 2B). Solar Panels. PMSI). Creditor's claim is $50,000.00. Debtors propose to pay $5,000.00 at 3.70% with a monthly dividend of $91.41.
d. Loancare LLC (Class 4, Mortgage on 950 Ponderosa Way, W. Madera, CA). $3,922.88 per month to be paid directly by Debtors.
e. Priority unsecured claims amounting to $9,269.00 to be paid in full.
f. Nonpriority unsecured claims amounting to $323,459.00 to be paid at 29%.

Doc. #64.

Chapter 13 trustee Lilian G. Tsang ("Trustee") timely objected to confirmation of the plan for the following reason(s): Debtors' plan proposes to treat Nuvision and Sunnova as a Class 2 claims with regard to the Chevrolet Equinox and the Solar Panels and pay the value of the collateral securing those claims, but no order on valuation has been entered. Doc. #78.

Nuvision also objects to confirmation on the grounds that the plan proposes to pay Nuvision less than the amount owed on the Chevrolet Equinox and that the proposed interest rate is below the *Till* rate. Doc. #80. Nuvision argues that if the Equinox is given the same treatment as the Volkswagen (Class 2A), Debtors' plan is not feasible in light of their most recent Schedule J, which reflects a net monthly income of $3,119.28. *Id.* Nuvision also argues that the proper *Till* rate is 10.5%. *Id.*

The court has granted the Debtors' motion to value the Sunnova collateral. *See Item #7, below.* The Debtors' motion to value the collateral of Nuvision will proceed to hearing. *See Item #6, below.* Nuvision opposes that motion for valuation. *See* Doc. #82. The court is inclined to grant the valuation motion which will moot Nuvision's opposition to this motion, but the court will allow the valuation motion to proceed to hear from all parties. Depending on the disposition of Item #6, the court may decide differently, but at present, the court is inclined to grant the valuation motion.

Finally, regarding Nuvision's complaint about the *Till* rate, Debtors respond to the Opposition by stating that they will stipulate to an interest rate of "prime plus one percent, which was 8.5% Interest at the time of the filing of this case." Doc. #84. The court finds this language from the Response unclear and is uncertain whether Debtors are proposing an interest rate of 8.5% as is listed in the Plan or whether they are willing to increase the interest rate for the Equinox

to 8.5% plus one percent (i.e. 9.5%). *Id.* Either way, it is less than the 10.5% which Nuvision demands.

This matter will be heard to determine if the valuation motion from Item #6 is resolved and also to determine whether the parties can agree on a proper interest rate. Assuming those issues can be resolved, this motion will be GRANTED. The confirmation order shall include the docket control number of the motion and reference the plan by the date it was filed.

6. 25-10887-B-13 **IN RE: ERIC/REBECCA GRIMM**
JRL-5

MOTION TO VALUE COLLATERAL OF NUVISION FEDERAL CREDIT UNION
7-15-2025 [65]

REBECCA GRIMM/MV
JERRY LOWE/ATTY. FOR DBT.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: Order preparation to be determined at the hearing.

Eric ("Eric") and Rebecca Grimm (collectively "Debtors") move for an order valuing a 2018 Chevrolet Equinox ("Vehicle") at $31,348.00 under 11 U.S.C. § 506(a). Doc. #65. Vehicle is encumbered by a purchase money security interest in favor Nuvision Federal Credit Union ("Nuvision"), which asserts a claim in the amount of $16,210.99 in its proof of claim. POC #3. Debtors' filings estimate Nuvision's claim at 16,581.00. Doc.#1 (Sched. D).

Debtors served Nuvision on July 16, 2025, by first-class mail to the address designated on its proof of claim as the proper address for receiving notices in accordance with Rule. 3007(a)(2)(A). Doc. #76. Although Nuvision is not a federally insured depository institution within the meaning of Rule 7004(h), Debtors nevertheless served Nuvision by certified mail at its headquarters to the attention of its CEO. *Id.*

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual

hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

On August 12, 2025, Nuvision timely filed an opposition to the motion. Doc. #82. No other party in interest responded, and the defaults of all other parties in interest besides Nuvision are entered. This hearing will proceed as scheduled.

11 U.S.C. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) the debt was incurred within 910 days preceding the filing of the petition, and (3) the collateral is a motor vehicle acquired for the personal use of the debtor.

11 U.S.C. § 506(a)(1), which applies to all debtors under this title, states:

> An allowed claim of a creditor secured by a lien on property in which the estate has an interest, or that is subject to setoff under section 553 of this title, is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property, or to the extent of the amount subject to setoff, as the case may be, and is an unsecured claim to the extent that the value of such creditor's interest or the amount so subject to set off is less than the amount of such allowed claim. Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest.

11 U.S.C. § 506(a)(2) states:

> If the debtor is an individual in a case under chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.

Nuvision apparently concedes that valuation of the Vehicle is governed by 11 U.S.C. § 506 and does not argue for application of the hanging paragraph of 11 U.S.C. § 1325(a)(*). Doc. #82. Nuvision states in its Opposition that the security agreement between The Debtors and Nuvision was executed on February 22, 2023, which is only 759 days before the July 5, 2021, petition date. *Id.* Nuvision does not support

its assertion of a February 22, 2023, contract date with any evidence. *Id.* A copy of the Retail Installment Sale Contract ("the Contract") between Debtors and Nuvision governing purchase of the Vehicle as attached to the Proof of Claim and is dated July 5, 2021. POC #3-1.

Eric also declares that the Vehicle was financed on July 5, 2021, and he includes a copy of the Contract as an exhibit. Docs. ##67-68. July 5, 2021, is 1,339 days before the petition date. The court is satisfied that the elements of § 1325(a)(*) are not met and § 506 is applicable.

Eric further declares that the Vehicle has a replacement value of $13,500.00. Doc. #67. Debtor is competent to testify as to the value of the Vehicle. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

In its opposition, Nuvision asserts that the value of the Vehicle should properly be set at $15,900.00. Doc. #82. Nuvision bases this valuation on a copy of a J.D. Power valuation report ("the Report") which is attached to the Proof of Claim. POC #3-1. Nuvision states in its motion:

> Based upon the J.D. Power report clean retail valuation, the Creditor believes that the value of the Vehicle in good condition is $15,900.00. "Average retail condition" is defined as follows: "the vehicle is in very good to excellent condition, both mechanically and cosmetically, with no major defects or issues. It implies that the vehicle has been well-maintained, is free from major damage, and has a clean title."

Doc. #82. Nuvision cites no authority for its assertion that "the appropriate valuation to use in determining the Creditor's claim for the Vehicles should be the J.D. Power report." Doc. #82. Furthermore, even if it were the "appropriate valuation" standard, Nuvision presents no evidence of any inspection of the Vehicle upon which a conclusion that the Vehicle "is in very good to excellent condition, both mechanically and cosmetically, with no major defects or issues," or that the vehicle has been well-maintained, is free from major damage, and has a clean title. *Id.* The court does not find the rote inclusion of a J.D. Power report without any further context or evidence that the Vehicle satisfies the criteria used to determine Nuvision's proposed valuation.

In contrast, Debtors have submitted a second Declaration from Eric in response to Nuvision's Opposition in which he declares that he personally inspected the Vehicle and compared it to two other vehicles of the same year, make, and model currently listed for sale by used car dealerships, and he considered the Kelly Blue Book retail value in light of the year, make, model, mileage, and condition of the Vehicle. Doc. #86. After comparing the condition and list prices of those

vehicles with his own Vehicle, he declares, he came to the opinion that the value of the Vehicle is $13,500.00. *Id.*

This hearing will proceed as scheduled. The court is inclined to overrule Nuvision's Opposition and GRANT the motion for valuation. Nuvision's secured claim will be fixed at $13,500.00. The proposed order shall specifically identify the collateral and the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

7. 25-10887-B-13 **IN RE: ERIC/REBECCA GRIMM**
JRL-6

MOTION TO VALUE COLLATERAL OF SUNNOVA ENERGY INTERNATIONAL, INC.
7-15-2025 [69]

REBECCA GRIMM/MV
JERRY LOWE/ATTY. FOR DBT.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: The Moving Party shall submit a proposed order in conformance with the ruling below.

Eric and Rebecca Grimm (collectively "Debtors") move for an order valuing personal property consisting of a set of solar panels ("the Property") at $5,000.00 under 11 U.S.C. § 506(a). Doc. #69 *et seq.* The Property is encumbered by a purchase money security interest in favor Sunnova Energy International, Inc. ("Sunnova"). *Id.*

Claimant was properly served on July 16, 2025, by first-class mail to Sunnova's registered agent and also to the address listed on Sunnova's proof of claim and to the attention of CEO Paul Mathews in accordance with Rule. 3007(a)(2)(A). Doc. #77.

No party in interest timely filed written opposition. This motion will be GRANTED.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of the creditors, the chapter 13 trustee, the U.S. Trustee, or any other party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Further, because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006). Therefore, the defaults of the above-mentioned

parties in interest are entered and the matter will be resolved without oral argument. Upon default, factual allegations will be taken as true (except those relating to amounts of damages). *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). Constitutional due process requires that a plaintiff make a *prima facie* showing that they are entitled to the relief sought, which the movant has done here.

The motion is GRANTED. 11 U.S.C. § 1325(a)(*) (the hanging paragraph) states that 11 U.S.C. § 506 is not applicable to claims described in that paragraph if (1) the creditor has a purchase money security interest securing the debt that is the subject of the claim, (2) that collateral is personal property other than a motor vehicle acquired for the personal use of the debtor, and (3) the debt was incurred within one year preceding the filing of the petition.

11 U.S.C. § 506(a)(1), which applies to all debtors under this title, states:

> An allowed claim of a creditor secured by a lien on property in which the estate has an interest, or that is subject to setoff under section 553 of this title, is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property, or to the extent of the amount subject to setoff, as the case may be, and is an unsecured claim to the extent that the value of such creditor's interest or the amount so subject to set off is less than the amount of such allowed claim. Such value shall be determined in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest.

11 U.S.C. § 506(a)(2) states:

> If the debtor is an individual in a case under chapter 7 or 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purposes, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.

Here, Debtors financed the purchase of the Property through Sunnova on or about March 16, 2023, which is more than 1 year preceding the March 22, 2025, petition date. Doc. #71. Thus, the elements of § 1325(a)(*) are not met and § 506 is applicable.

Joint debtor Eric Grimm declares the Property has a replacement value of $5,000.00. *Id.* Debtor is competent to testify as to the value of the Property. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

No party in interest timely filed written opposition. Accordingly, this motion will be GRANTED. Creditor's secured claim will be fixed at $5,000.00 The proposed order shall specifically identify the collateral and the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

8. 25-12676-B-13 **IN RE: FRED KISER**
KLG-1

MOTION TO EXTEND AUTOMATIC STAY
8-20-2025 [23]

FRED KISER/MV
ARETE KOSTOPOULOS/ATTY. FOR DBT.
OST 8/22/25

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Granted.

ORDER: The minutes of the hearing will be the court's findings and conclusions. The court will prepare the order.

Fred Kiser ("Debtor") requests an order extending the automatic stay under 11 U.S.C. § 362(c)(3). Doc. #23.

This matter will be called and proceed as scheduled. Written opposition was not required and may be presented at the hearing.

This motion was set for hearing on shortened notice with an OST under the procedure specified in Local Rule of Practice ("LBR") 9014-1(f)(3). Consequently, the creditors, the U.S. Trustee, and any other parties in interest were not required to file a written response or opposition to the motion. If any of these potential respondents appear at the hearing and offer opposition to the motion, the court will set a briefing schedule and a final hearing unless there is no need to develop the record further. If no opposition is offered at the hearing, the court will take up the merits of the motion. Oral argument may be presented by the parties at the scheduled hearing, where the parties shall address the issues identified in this tentative ruling and such other issues as are necessary and appropriate to the court's resolution of the matter.

The motion and accompanying *Motion to Shorten Time* were filed on August 20, 2025, just seven days before the August 27, 2025, hearing date. Doc. #22.

Under 11 U.S.C. § 362(c)(3)(A), if the debtor has had a bankruptcy case pending within the preceding one-year period that was dismissed, then the automatic stay under subsection (a) shall terminate with respect to the debtor on the 30th day after the latter case is filed.

Debtor represents that he has had one prior case in the past year: Case No. 2:23-bk-20153 in the Western District of New York Rochester Division ("the Rochester Case"). The Rochester case was filed on April 12, 2023, and dismissed on July 17, 2025, apparently for failure to make plan payments after losing his job. Doc. #25. Debtor declares that he moved from New York to Ridgecrest, California in July 2024. *Id;* Doc. #1. No documentation is included in the moving papers regarding the Rochester Case or its disposition, and no exhibits were filed. *Docket generally.* However, Debtor's counsel, Arete Kostopoulos, represents in the motion that the Rochester Case was dismissed on July 17, 2025.

Debtor's current case was filed in this district on August 8, 2025. Doc. #1. The 30th date after the current case was filed is September 7, 2025, which is a Monday. The automatic stay in the current case will expire on September 8, 2025.

11 U.S.C. § 362(c)(3)(B) allows the court to extend the stay to any or all creditors, subject to any limitations the court may impose, after a notice and hearing where the debtor demonstrates that the filing of the latter case is in good faith as to the creditors to be stayed. Such request must be made within 30 days of the petition date.

Cases are presumptively filed in bad faith if any of the conditions contained in 11 U.S.C. § 362(c)(3)(C) exist. The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* Under the clear and convincing standard, the evidence presented by the movant must "place in the ultimate factfinder an abiding conviction that the truth of its factual contentions are 'highly probable.' Factual contentions are highly probable if the evidence offered in support of them 'instantly tilt[s] the evidentiary scales in the affirmative when weighed against the evidence offered in opposition.'" *Emmert v. Taggart (In re Taggart)*, 548 B.R. 275, 288, n.11 (B.A.P. 9th Cir. 2016) (citations omitted) (vacated and remanded on other grounds by *Taggart v. Lorenzen*, 139 S. Ct. 1785 (2019)).

In this case, the presumption of bad faith arises. The subsequently filed case is presumed to be filed in bad faith as to all creditors because Debtor has more than one previous case under chapter 13 that was pending within the preceding one-year period and Debtor failed to perform the terms of a confirmed plan. 11 U.S.C. § 362(c)(3)(C)(I)(i).

It is not completely clear from the Declaration why the Rochester Case was dismissed, but from the context, it appears to have been for a deficiency in plan payments that was not cured even though Debtor declares that he was still subject to the wage order through August 7, 2025. Doc. #23.

Debtor attributes his failure to maintain plan payments in the Rochester Case to a number of tragic factors, including the death of his only living parent, his divorce from his then-spouse, severe depression, and bipolar disorder. Doc. #25. Debtor also became unemployed from July 19, 2024, through April 6, 2025. *Id.* Debtor moved from New York to Ridgecrest, California to live with his daughter, incurring $2,850.00 in moving expenses. *Id.* His vehicle, which was being paid through the confirmed plan in the Rochester Case, was repossessed on August 6, 2025. *Id.*

Debtor further declares that he has since obtained new employment at the Ridgecrest Regional Hospital at a payrate of $33.00 per hour. *Id.* This is confirmed in his Schedules I & J, which reflect a monthly gross income of $5,695.45 and a monthly net income of $1,925.45. Doc. #11. That is sufficient to fund his as-yet unconfirmed Chapter 13 Plan, which provides for 36 monthly payments of $1,925.45 with a 24% dividend to unsecured claims. Doc. #13.

No information about the Schedules and/or confirmed plan from the Rochester Court have been made available to the court.

Based on the moving papers and the record, the presumption appears to have been rebutted by clear and convincing evidence because Debtor's financial condition and circumstances have materially changed. Debtor's petition appears to have been filed in good faith and the proposed plan does appear to be feasible.

This matter will be called and proceed as scheduled. In the absence of opposition at the hearing, this motion may be GRANTED. If opposition is presented at the hearing, the court will consider the opposition and whether further hearing is proper pursuant to LBR 9014-1(f)(2).

11:00 AM

1. 24-10060-B-13 **IN RE: JENNIFER GITMED**
HDN-4

CONTINUED PRE-TRIAL CONFERENCE RE: AMENDED OBJECTION TO CLAIM OF INTERNAL REVENUE SERVICE, CLAIM NUMBER 1
7-26-2024 [84]

JENNIFER GITMED/MV
HENRY NUNEZ/ATTY. FOR DBT.

NO RULING.

2. 23-12178-B-7 **IN RE: JOHN/CYNTHIA MENDOZA**
25-1028 CAE-1

RESCHEDULED STATUS CONFERENCE RE: COMPLAINT
6-27-2025 [1]

EDMONDS V. ESPITIA
ANTHONY JOHNSTON/ATTY. FOR PL.

FINAL RULING: There will be no hearing in this matter.

DISPOSITION: Continued to October 8, 2025, at 11:00 a.m.

ORDER: The court till issue the order.

It appearing that the defendant is in default and the plaintiff has already been ordered to set the matter for prove-up, this status conference is hereby CONTINUED to October 8, 2025, at 11:00 a.m., subject to further continuance if the Plaintiff has filed a motion for entry of default judgment and set the matter for hearing on entry of the default judgment.

3. 25-10088-B-11 **IN RE: AMY CORPUS**
25-1017 CAE-1

RESCHEDULED STATUS CONFERENCE RE: COMPLAINT
4-21-2025 [1]

SLOVER ET AL V. CORPUS
JUSTIN CARTER/ATTY. FOR PL.

NO RULING.

4. 25-10088-B-11 **IN RE: AMY CORPUS**
25-1017 FW-2

MOTION TO DISMISS ADVERSARY PROCEEDING/NOTICE OF REMOVAL
AND/OR MOTION TO STRIKE
7-25-2025 [20]

SLOVER ET AL V. CORPUS
UNKNOWN TIME OF FILING/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

Amy Corpus ("Corpus" or "Defendant"), defendant in this adversary proceeding ("the Adversary") and debtor in the underlying bankruptcy proceeding, moves for dismissal of the Adversary pursuant to pursuant to Fed. R. Civ. P. 12, made applicable to adversary proceedings by Fed. R. Bankr. Proc. 7012 ("Rule 12"). Doc. #20. The defendants include Leslie Slover ("Slover") and Lily Ortiz ("Ortiz"), both individuals (collectively, "the Plaintiffs"). Doc. #1.

The specific grounds for dismissal advanced by Corpus include:

1. Insufficiency of Service of Process;
2. Insufficiency of Process;
3. Failure to join a Necessary Party;
4. Failure to comply with Fed. R. Bankr. Proc. 7008 ("Bankruptcy Rule 7008"); and
5. Failure to state with particularly grounds upon which relief may be granted pursuant to Rule 12(b)(6).

Id. Incorporated into the motion to dismiss is a motion to strike all references in the Complaint and possibly other court filings of the given name of a particular individual who the court will refer to hereafter as "Client." Doc. #20.

The Complaint alleges that Corpus operates a sole proprietorship business called Kalos Specialized Services ("Kalos"), which operates programs that assist with developmentally disabled or otherwise handicapped adults. Doc. #1. Slover and Ortiz both worked for Kalos in the role of "Community Outreach Specialist." *Id.* Client is a disabled person served by Kalos. The full scope of Client's disabilities is not known to the court. The Complaint alleges that he is mute with a hearing impairment, but the Complaint hints at behavioral issues that gave rise to this dispute.

Defendant argues that Client's name and identity are protected under certain federal laws from having his personal health information ("PHI") disclosed to others. Doc. #20. The Adversary alleges that Slover and Ortiz at different times were assigned by Kalos to perform outreach work at the Client's home where they were subjected to sexual

harassment and physical assault by him. *Id.* The Complaint also identifies Client by his real name.

Defendant argues that so long as Client is identified by his real name in court filings, Corpus will be hamstrung is presenting a defense while also protecting Client's rights to confidentiality. Doc. #20. In effect, Defendant argues that she cannot fully respond to the allegations in the Complaint nor fully comply with discovery requirements without discussing Client's PHI to a degree that might expose her and Kalos to legal consequences under the relevant laws regarding PHI. *Id.*

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). The failure of any party in interest to file written opposition at least 14 days prior to the hearing as required by LBR 9014-1(f)(1)(B) may be deemed a waiver of any opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

Plaintiffs timely filed their Opposition to the motion on August 13, 2025. Defendant elected not to file a Reply.

BACKGROUND

The underlying facts are unsavory and mostly irrelevant to the issues raised by this motion to dismiss. Except where noted otherwise, the facts as outlined below are drawn from the Complaint. Doc. #1.

1. Plaintiffs and their causes of action.

As stated *supra,* Slover and Ortiz both worked for Kalos, though apparently not together, as Community Outreach Specialists, which apparently is a euphemism for caregiver. In that capacity, their duties required them to visit Client at his home, where he allegedly subjected them to sexual harassment of a lewd and disturbing nature and, on occasion, physical violence directed against each of them.

The precise timing of these incidents is not outlined in the Complaint, but Ortiz alleges that they commenced for her sometime after her employment with Kalos began in or around May 2020 and continued until at least May 1, 2023, and sometime after that date, she demanded and was granted a transfer to another location at greatly reduced hours. Slover alleges that she too was assigned to Client shortly after she commenced work in March 2020, and Client subjected her to sexual harassment and eventually violence from shortly after her employment began until August 16, 2023, when Client allegedly physically attacked her in an incident to which police were called. Two days later, Slover was "forced to resign" from Kalos. During these events, both Defendants reported Client's conduct to their superiors at Kalos, who allegedly took no meaningful actions as a response.

On August 15, 2024, Plaintiffs filed a civil complaint in the Superior Court of California, County of Fresno in Case No. 24CECG03529 ("the State Court Action"). *See Doc. #27 (Decl. of Justin Carter).* That case appears to be ongoing. No judgment in the State Court Action has been awarded.

2. The Filing of the Adversary.

Plaintiffs filed this Adversary on April 21, 2025, seeking damages for "emotional distress, humiliation, physical injuries, constructive discharge, and loss of income and professional opportunities." They also seek a determination of the dischargeability of any judgment obtained against Defendant pursuant to 11 U.S.C. § 523(a)(6) [intentional injuries]. The Complaint is styled as "LESLIE SLOVER, an individual; LILY ORTIZ, an individual vs. AMY CORPUS, an individual, dba KALOS SPECIALIZED SERVICES, a California corporation; and DOES 1 through 50."

On that same day the Adversary was filed, Plaintiffs filed a Certificate of Service ("the April 21 COS"), styled as "Proof of Service," indicating that Plaintiffs' counsel (Justin Carter or "Carter") had served the Adversary Proceeding Cover Sheet and a copy of the Complaint to Determine Dischargeability of Debt Pursuant To [11 U.S.C. § 523(A)(6)] on Fear Waddell, P.C. (counsel for debtor in the underlying bankruptcy case) via email to *fearnotice@gmail.com*. Doc. #6. Among other potential issues, this "Proof of Service" did not use the official Certificate of Service Form 7-005 used in this District.

On June 17, 2025, Carter filed a second Certificate of Service ("the June 17 COS"), this time using the proper Form 7-005, announcing service of a Reissued Summons and Notice of Status Conference. Doc. #8. The June 17 COS again purported to serve Defendant solely through the *fearnotice@gmail.com* email address. *Id.*

The Exhibits accompanying this motion include email exchanges regarding service of the Complaint between Carter and Peter Sauer ("Sauer"), who is an attorney with Fear Waddell, P.C. Doc. #22 (Exhibits A-C). In these exchanges, which all took place on June 24, 2025, Sauer advised Carter that (a) no summons was issued with the proof of service; (b) the email address to which service was purportedly made existed solely to receive court notices; (c) an automated email to that effect was sent to Carter's office; (d) Sauer did receive a mailed copy of the summons but not the Complaint' (e) Fear Waddell, P.C was not authorized to accept service on Corpus' behalf; and (f) the requirements of formal service under Fed. R. Bankr. Pro. 7004 and 7005 were not waived. *Id.*

On June 26, 2025, Carter filed a third Certificate of Service ("the June 26 COS"), which indicated service of the Complaint and related documents Corpus at her residence and to Fear Waddell, P.C. at their offices. Doc. #14. Both were served by certified mail. *Id.*

On July 22, 2025, Sauer emailed Carter about the use of Client's unredacted name in the Complaint. Doc. #22 (Exhibit D). Carter responded, denying that redacting was necessary, and Sauer duly replied. *Id.*

On July 25, 2025, Defendant filed this Motion to Dismiss and Motion to Strike [Client's name and personal information] in lieu of an Answer. Doc. #18. In addition to the Exhibits alluded to earlier (Doc. #22), the Motion is also accompanied by Sauer's Declaration. Doc. #23. In the Declaration, Sauer, *inter alia*, outlines the history of the case vis a vis Plaintiffs' efforts to effect service. *Id.* Sauer also represents to the court the following:

> Thereafter on July 1, the Defendant reported to me that she had received a notice from her postal carrier that said she had a "missed" delivery and that in order to get the mailing, she must report to the post office to collect the missed delivery item. She further reported that she went to the post office and was handed an envelope that had been sent to her via certified mail from Plaintiffs' counsel. She did not open it, but I have reason to believe that it is the documents from Plaintiffs attempting to serve her.

Id. at ¶14.

On August 13, 2025, Plaintiffs filed their Response to the Motion. Doc. #25.

LEGAL ANALYSIS

Defendant raises the following grounds for dismissal: (1) Insufficiency of Service of Process; (2) Insufficiency of Process; (3) Failure to join a Necessary Party; (4) Failure to comply with Fed. R. Bankr. Proc. 7008 ("Rule 7008"); and (5) Failure to state with particularly grounds upon which relief may be granted pursuant to Rule 12(b)(6).

The court will address all these grounds for the record, but, finding Defendant's arguments under Rule 12(b)(6) to be the most salient, the court will GRANT the motion in part. Plaintiffs shall have **fourteen (14) days** from the date of entry of a conforming order in which to file an Amended Complaint which addresses the points outlined below.

1. Rule 12(b)(6).

Defendant's 12(b)(6) argument is straightforward. The Complaint simply does not state any facts which, if true, indicate liability on the part of Corpus. Doc. #20 at ¶10. The Complaint alleges in ¶29 as follows:

In or around April 2023, Mr. Farmer told Ms. CORPUS about [Client's] sexual harassment of Ms. ORTIZ and proclivity to engage in physical

confrontations. However, Ms. CORPUS dismissed Ms. ORTIZ' report and claimed Ms. ORTIZ was exaggerating.

Id. The complaint does not make any specific allegations against Corpus germane to the claims of Slover. *Id.* The Complaint states that Slover and Ortiz were employees of Corpus, doing business as KALOS SPECIALIZED SERVICES ("KALOS"), a California corporation. Doc. #1 at ¶7, ¶9. The complaint is otherwise silent as to any actions by Corpus which could give rise to liability.

In the court's view, the Complaint *barely* states a claim against which relief can be granted as to Ortiz and Corpus, but the pleadings are wholly inadequate in linking Stover to Corpus.

The motion is GRANTED IN PART. The court declines to dismiss this case entirely. Plaintiffs will be given leave to amend the Complaint to (if possible) cure the absence of a viable claim by Stover against Corpus. When filing the Amended Complaint, Plaintiffs should also be mindful of any issues discussed below.

2. Service of Process.

The court is not inclined to find any fatal deficiency in process or service of process. While the Plaintiffs stumbled a bit in their initial attempts at service, it appears that service was eventually effected on both Corpus and Fear Waddell. Defendant, through counsel, acknowledges that she did receive notice of a "missed" delivery at her "usual place of abode" and that she went to the post office and claimed what, as far as the court can tell, was an envelope containing the documents which Plaintiffs sought to serve upon her.

Defendant points to Rule 7004(b)(1), which states:

(b) Service by Mail as an Alternative. Except as provided in subdivision (h), in addition to the methods of service authorized by Fed. R. Civ. P. 4(e)–(j), a copy of a summons and complaint may be served by first-class mail, postage prepaid, within the United States on:

(1) an individual except an infant or an incompetent person—by mailing the copy to the individual's dwelling or usual place of abode or where the individual regularly conducts a business or profession;

Fed. R. Bankr. Pro. 7004(b)(1). The phrase "[e]xcept as provided in subdivision (h)" refers to Rule 7004(h), which requires that service insured depository institution be made via certified mail. Fed. R. Bankr. 7004(h).

Defendant interprets this language to mean that service via first-class mail, postage prepaid, is mandatory under Rule 7004(b)(1) and that service to an individual at their dwelling or usual place of abode is improper if made via certified mail. The fact that Defendant

had to go to the post office to retrieve the missed delivery, Defendant argues, means that she was "forced to travel to some other location" than her "usual place of abode," which, in turn, represents a denial of her due process rights. Doc. #20 at ¶¶5-6.

The court finds this interpretation to be both dubious and moot. Defendant was apparently not present when the certified delivery was made, and the mail carrier left behind notice of a missed delivery. In response, she voluntarily went to the post office and took possession of what both her counsel and the court presume to have been the summons and complaint. Setting aside the question of whether leaving a "missed delivery" notice regarding a certified letter left at Defendant's home satisfies the requirements of Rule 7004(b)(1), Defendant *did* take possession of the certified mailing at which point service was effected.

Hypothetically, had Defendant *not* gone to collect the missed delivery, the certified mailing would have been returned to sender, Plaintiffs would have had notice that service had not been properly effected, and they would have had opportunity to pursue service by other means. But the fact remains that Defendant *did* take possession of the certified mailing, whereupon Plaintiffs were notified of that fact.

Service was sufficient. The court is not inclined to require new service since Plaintiff will need to file an amended complaint anyway.

3. Failure to Join a Necessary Party.

Corpus finds fertile ground on this assignment of error. The Complaint identifies the Defendant as "AMY CORPUS, an individual, dba KALOS SPECIALIZED SERVICES, a California Corporation." Doc. #1. According to Defendant, the Complaint "asserts causes of action as against Defendant which are on their face the responsibility of the corporate entity." Doc. #20. Consequently, Kalos as an entity legally distinct from Corpus is a necessary party.

The court is not *entirely* persuaded of that argument. But the court does find the caption of the case to be confusing. A sole proprietorship and a corporation are distinct business entities, and if Kalos is "a California corporation," it is distinct from Corpus. The court agrees with Defendant that many of the actions giving rise to this Adversary seem applicable to Kalos rather than Corpus in her individual capacity.

Before filing the amended complaint, Plaintiffs should thoroughly identify the business relationship between Corpus and Kalos and, if Kalos is a separate entity, add it as a party and serve it with the summons and complaint as well. The court reminds Plaintiff that it is likely any claim against the corporate entity is "non-core" and Plaintiff will need to make a jurisdictional analysis.

4. Rule 7008.

Defendant states that "Plaintiffs have further failed to comply with the requirements set forth in Fed. R. Bankr. Proc. 7008." Doc. #20. However, Defendant states no specifics in how Plaintiffs failed to comply with that Rule. When filing an amended complaint, Plaintiffs will be expected to thoroughly review Rule 7008 and ensure that all its requirements, including those from Fed. R. Civil P. 8 that are incorporated by reference into Rule 7008, are met.

5. The Motion to Strike.

Finally, turning to Defendant's Motion to Strike, the court is inclined to seal the original complaint because of the scandalous nature of the allegations against Client. Plaintiffs engage in some hair-splitting about the definition of the word "scandalous," arguing that the term in the context of a motion to strike means "allegations that cast a cruelly derogatory light on a party or person." Doc. #25.

The court declines to quantify the scandalous nature of Plaintiffs' serious allegations of pervasive and constant sexual harassment and violence against an individual not a party to this Adversary and who has some form of disability even if not fully explicated in the filings. In any case, such inquiry is unnecessary as the court has already directed that Plaintiffs amend the Complaint, and Plaintiffs have stated a willingness to use a pseudonym when describing Client in an amended complaint. The court directs that they do so.

Furthermore, it is the order of this court that the original complaint [Doc. #1] which identified Client by name be sealed.

CONCLUSION

This hearing will proceed as scheduled. Based on the foregoing analysis, the court is inclined to rule as follows:

1. Defendant's *Motion to Dismiss* will be GRANTED IN PART AND DENIED IN PART. Plaintiffs shall within **fourteen (14) days** from entry of a conforming order file an Amended Complaint which conforms to the court's order and serve it on Defendant and Defendant's counsel.
2. Defendant's *Motion to Strike* will be GRANTED IN PART AND DENIED IN PART. The court declines to strike any of Plaintiff's pleadings. The Amended Complaint shall identify Client by an appropriate pseudonym.
3. The Complaint (Doc. #1) will be ORDERED SEALED.

Plaintiffs and Defendant's counsel shall settle on a form of order signed by each counsel before submission to the court.

5. 25-12093-B-7 **IN RE: SHARON KENEHAN**
25-1027 CAE-1

RESCHEDULED STATUS CONFERENCE RE: COMPLAINT
6-25-2025 [1]

KENEHAN V. NELNET
SHARON KENEHAN/ATTY. FOR PL.

FINAL RULING: There will be no hearing in this matter.

DISPOSITION: Concluded and dropped from calendar.

ORDER: The court will prepare the order.

On June 25, 2025, a *Summons and Notice of Status Conference* was issued in this adversary proceeding giving the plaintiff seven (7) days after issuance in which to complete service on the defendant(s) and setting August 218, 2025, as the date for the status conference. Doc. #3. The date for the status conference was subsequently reset for August 27, 2025, by order of the court. Doc #6.

No certificate of service evincing that the defendant(s) were timely served has been filed. Accordingly, the summons is stale, and this Status Conference is CONCLUDED and will be DROPPED from the calendar. Plaintiff must request that the court issue a new summons for service. Fed. R. Bankr. P. 7004(e) and 9006(e).