



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

Honorable Christopher M. Klein  
Bankruptcy Judge  
Sacramento, California

**October 4, 2023 at 1:30 p.m.**

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

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UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

October 4, 2023 at 1:30 p.m.

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1. [20-23808](#)-C-13 BETTY GONZALES MOTION TO MODIFY PLAN  
[PGM](#)-3 Peter Macaluso 8-25-23 [[47](#)]

**Final Ruling:** No appearance at the October 4, 2023 hearing is required.  
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The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 40 days' notice was provided. Dkt. 51.

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

**The Motion to Modify Plan is granted.**

The debtor filed this Motion seeking to modify the terms of the confirmed plan pursuant to 11 U.S.C. § 1329.

No opposition to the Motion has been filed.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is granted, and the plan is confirmed.

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

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

The Motion to Modify Plan filed by the debtor, Betty Gonzales, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is granted, the Modified Chapter 13 Plan (Dkt. 49) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is

October 4, 2023 at 1:30 p.m.

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

**Final Ruling:** No appearance at the October 4, 2023 hearing is required.  
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The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 54 days' notice was provided. Dkt. 59.

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

**The Motion to Modify Plan is granted.**

The debtors filed this Motion seeking to modify the terms of the confirmed plan pursuant to 11 U.S.C. § 1329.

No opposition to the Motion has been filed.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is granted, and the plan is confirmed.

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

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

The Motion to Modify Plan filed by the debtors, Juan Urbina, Jr. and Ashlie Urbina, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is granted, the Modified Chapter 13 Plan (Dkt. 57) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. Counsel for the debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the trustee will submit the proposed order to the court.

3. [23-21723](#)-C-13 BARBARA MYERS  
[KMB](#)-1 Peter Macaluso

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
8-7-23 [[41](#)]

U.S. BANK TRUST NATIONAL  
ASSOCIATION VS.

**Final Ruling:** No appearance at the October 4, 2023 hearing is required.  
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<b>The Motion is dismissed without prejudice.</b>
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On September 11, 2023, the Movant filed an Ex Parte Motion to Dismiss. Dckt. 68. Federal Rule of Civil Procedure 41(a)(2), incorporated by Federal Rules of Bankruptcy Procedure 9014 and 7041, allows dismissal after a responsive pleading has been filed on terms the court considers proper.

The court finds withdrawal is warranted here. The Motion is dismissed without prejudice, and the court removes this Motion from the calendar.

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

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

The motion filed by U.S. Bank Trust National Association having been presented to the court, the movant having requested that the Motion itself be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is dismissed without prejudice.

4. [23-22441](#)-C-13 JAIME PADILLA  
[LGT](#)-1 Mark Wolff

OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
9-12-23 [[19](#)]

**Tentative Ruling:**

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

**The Objection to Confirmation of Plan is sustained.**

The Chapter 13 Trustee, Lilian G. Tsang ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Debtor failed to appear at the 341 meeting;
2. The plan, at section 3.05, is unchecked and is inconsistent with the Rights and Responsibilities form that was filed;
3. The Trustee is unable to determine the accuracy of the debtor's schedules because the claims of exemption are higher than the amounts in Schedule A/B;
4. Debtor fails to list self-employment business reported in the 2022 tax returns; and
5. The debtor has failed to explain transactions made through a payment app.

**DISCUSSION**

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

The debtor has supplied insufficient information relating to the debtor's self-employment and to explain transactions made through a payment app to assist the Chapter 13 Trustee in determining the value of the debtor's income and expenses.

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

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

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

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

**IT IS ORDERED** that the Objection is sustained.

5. [21-21656](#)-C-13 TEMA ROBINSON  
[PGM](#)-7 Peter Macaluso

CONTINUED MOTION TO EXTEND  
APPLICATION TO DISMISS AND/OR  
MOTION TO APPROVE USE OF STATE  
FARM GENERAL INSURANCE FUNDS  
6-20-23 [[127](#)]

**No Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 28 days' notice was provided. Dkt. 131.

**The Motion for Authority to Use Cash Collateral is xxxxxxx**

Tema Robinson ("Debtor") moves for an order approving the use of cash collateral from insurance proceeds from damages to her home located at 5900 40th Street, Sacramento, CA ("Property") that was secured by U.S. Bank N.A. ("Creditor"). Debtor requests the use of the insurance proceeds to be applied to the arrears on the account.

Creditor, U.S. Bank N.A. ("Creditor"), opposes the motion because the contract between the parties provides that insurance proceeds may be applied by the lender to either reduce the indebtedness or to the restoration or repair of the damaged property. Therefore, Creditor argues that debtor must show that the repairs were competently made and the insurer has not excluded the repaired part of the property from its coverage.

**APPLICABLE LAW**

As a debtor in Chapter 13, the debtor may use, sell, or lease property of the estate pursuant to 11 U.S.C. § 363(b), (d), (f) & (l). In relevant part, 11 U.S.C. § 363 states:

(b)(1) The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate, except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless-

(A) such sale or such lease is consistent with such policy; or

(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such



lease-

(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.

Federal Rule of Bankruptcy Procedure 4001(b) provides the procedures in which a trustee or a debtor in possession may move the court for authorization to use cash collateral. In relevant part, Federal Rule of Bankruptcy Procedure 4001(b) states:

(b) (2) Hearing

The court may commence a final hearing on a motion for authorization to use cash collateral no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a preliminary hearing before such 14-day period expires, but the court may authorize the use of only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

**DISCUSSION**

At the hearing .....

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

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

The Motion for Authority to Use Cash Collateral filed by Tema Robinson ("Debtor") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is **xxxxxxxxx**

6. [18-22662](#)-C-13 RAJINDAR SINGH  
[PGM](#)-5 Peter Macaluso

MOTION FOR COMPENSATION FOR  
PETER G. MACALUSO, DEBTORS  
ATTORNEY(S)  
8-22-23 [[171](#)]

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice, and 21 days notice if greater than \$1,000. FED. R. BANKR. P. 2002(a)(6). The Proof of Service shows that 43 days' notice was provided. Dkt. 176.

**The Motion for Allowance of Professional Fees is granted.**

Counsel for the debtor filed this Motion seeking additional compensation, beyond the fixed fee approved in connection with plan confirmation pursuant to Local Bankruptcy Rule 2016-1(c), for substantial and unanticipated work performed.

Fees are requested for the period March 9, 2021, through March 21, 2023. Applicant requests fees in the amount of \$2,000.00 and costs in the amount of \$0.00.

**DISCUSSION**

The unique facts surrounding the case, including modifying debtor's plan because of the Trustee's motion to dismiss the case, and to employ a realtor and sell debtor's real property, raise substantial and unanticipated work for the benefit of the Estate, Debtor, and parties in interest. The court finds that the hourly rates are reasonable and that Applicant effectively used appropriate rates for the services provided. The request for additional fees in the amount of \$2,000.00 and costs in the amount of \$0.00 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 13 Trustee from the available funds of the Plan in a manner consistent with the order of distribution in a Chapter 13 case under the confirmed Plan.

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

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

The Motion for Allowance of Fees and Expenses filed by Peter Macaluso ("Applicant"), Attorney having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that Applicant is allowed the following fees and expenses as a professional of the Estate:

Applicant, a professional employed by the Chapter 13 debtor,  
Rajinder Singh,

Fees in the amount of \$2,000.00  
Expenses in the amount of \$0.00,

as the final allowance of fees and expenses pursuant  
to 11 U.S.C. § 330 as counsel for Debtor.

**IT IS FURTHER ORDERED** that the Chapter 13 trustee is  
authorized to pay the fees allowed by this Order from the  
available Plan funds in a manner consistent with the order  
of distribution in a Chapter 13 case.

**Final Ruling:** No appearance at the October 4, 2023 hearing is required.  
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The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 37 days' notice was provided. Dkt. 30.

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

**The Motion to Confirm is granted.**

The debtors filed this Motion seeking to confirm the Chapter 13 Plan (Dkt. 28) filed on August 26, 2023.

No opposition to the Motion has been filed.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322 and 1325(a). The Motion is granted, and the plan is confirmed.

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

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

The Motion to Confirm filed by the debtors, John and Shannon Alvarado, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is granted, the debtors' Chapter 13 Plan (Dkt. 28) meets the requirements of 11 U.S.C. §§ 1322 and 1325(a), and the plan is confirmed. Debtor's counsel shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the trustee will submit the proposed order to the court.

8. [23-22266](#)-C-13 JOHN/SHANNON ALVARADO OBJECTION TO CONFIRMATION OF  
[NLG](#)-1 Mikalah Liviakis PLAN BY CARRINGTON MORTGAGE  
SERVICES, LLC  
8-8-23 [[20](#)]

**Final Ruling:** No appearance at the October 4, 2023 hearing is required.  
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The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 57 days' notice was provided. Dkt. 23.

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

**The Objection to Confirmation of Plan is overruled as moot.**

Creditor, Carrington Mortgage Services, LLC filed this Objection to Confirmation on August 8, 2023. Thereafter, the debtor filed an amended plan and corresponding Motion to Confirm, making this Objection moot. Dkts. 24, 28.

Therefore, the Objection is overruled.

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

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

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

**IT IS ORDERED** that the Objection is overruled as moot.

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 49 days' notice was provided. Dkt. 135.

**The Motion to Confirm is denied.**

The debtor filed this Motion seeking to confirm the Chapter 13 Plan (Dkt. 134) filed on August 16, 2023.

The Chapter 13 Trustee filed an Opposition (Dkt. 142) on September 7, 2023, opposing confirmation on the following grounds:

1. The plan fails to suspend postpetition contractual payments and does not provide for postpetition arrears; and
2. The plan fails to pay interest at the federal judgment rate.

Creditor, Deutsche Bank National Trust Company, as Trustee for Harbor View Mortgage Loan Trust Mortgage Loan Pass-Through Certificates, Series 2006-3, filed an opposition (Dkt. 145) on September 8, 2023, opposing confirmation on the following grounds:

1. The plan does not promptly cure the pre-petition arrears; and
2. The plan is not feasible

**DEBTOR'S RESPONSE**

The debtor filed a response (Dkt. 147) on September 26, 2023, addressing the following issues:

1. Debtor agrees that the plan fails to suspend postpetition contractual payments and does not provide for postpetition arrears, but requests the change be made in the confirming order; and
2. Debtor agrees that interest at the federal judgment rate should be applied and will be corrected in the confirming order.

**DISCUSSION**

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

Notwithstanding whether the plan provides for the arrearage as Creditor argues, the debtor has not carried his burden to show the plan is

adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

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

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

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

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

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

10. [23-22374](#)-C-13 WILLIE WATSON  
[HLG](#)-1 Peter Cianchetta

OBJECTION TO CONFIRMATION OF  
PLAN BY JESSICA WILLIAMS AND  
EMMA LAVERNE WILLIAMS  
8-31-23 [[40](#)]

Thru #13

**Tentative Ruling:**

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 43.

**The Objection to Confirmation of Plan is sustained.**

Creditors, Jessica Williams and Emma LaVerne Williams ("Creditors"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The debt owed to creditors is debt arising from fraud pursuant to 11 U.S.C. § 523(a)(4);
2. The plan was filed in bad faith;
3. The plan fails to provide for creditors claim; and
4. The debtor's claim for homestead exemption exceeds the legal limits.

**DISCUSSION**

A review of the docket does not show that a complaint in an adversary proceeding has been filed alleging a debt arising under § 523(a)(4).

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

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

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

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

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

**IT IS ORDERED** that the Objection is sustained.



11. [23-22374](#)-C-13 WILLIE WATSON  
[PLC](#)-1 Peter Cianchetta

CONTINUED MOTION TO EXTEND  
AUTOMATIC STAY  
7-26-23 [[18](#)]

**No Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that only 13 days' notice was provided. Dkt. 22.

**The Motion to Extend the Automatic Stay is xxxxxxx**

William James Watson, Sr. ("Debtor") seeks to have the provisions of the automatic stay provided by 11 U.S.C. § 362(a) extended beyond thirty days in this case. This is Debtor's second bankruptcy petition pending in the past year. Debtor's prior bankruptcy case was dismissed on June 5, 2023, after Debtor failed to file all necessary documents including a plan and a motion to confirm plan. Order, Bankr. E.D. Cal. No. 23-21656, Dkt. 8. Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end as to Debtor thirty days after filing of the petition.

Here, Debtor states that the instant case was filed in good faith and explains that the previous case was dismissed because he failed to file a motion to confirm plan within the extension granted by the court.

Creditors, Jessica and Emma LaVerne Williams, oppose the motion because they contend that the debtor had filed two - not one - previous bankruptcy cases in the year prior to the filing of the instant case. Creditors represent that in addition to Case No. 23-21656 filed on May 22, 2023, debtor also filed Case No. 23-21640 on May 22, 2023. Therefore, creditor argues that under 11 U.S.C. § 362(c)(4)(D)(i)(I) this case is presumptively not filed in good faith.

The prior hearing was continued to allow debtor to file an explanation as to why the debtor's social security number matched the tax ID in the previous two cases even though it was argued they were separately filed cases. Debtor filed a declaration representing that he has never been associated with Alternative Wealth Builders and does not know why his previous attorney used his address in the Alternative Wealth Builders case, or the Tax ID in his previous Chapter 13 case.

An additional creditor, Bowles & Verne LLP, opposes the debtor's request to extend the automatic stay. It asserts that the case was not filed in good faith because the debtor has an offshore bank account that have not been disclosed in debtor's schedules.

Section 362(c)(4)(D) states a case is presumptively filed not in good faith as to all creditors if 2 or more previous cases under this title in which the individual was a debtor were pending within the 1 year period. 11 U.S.C. § 362(c)(4)(D)(i)(I).

Upon motion of a party in interest and after notice and hearing, the

court may order the provisions extended beyond thirty days if the filing of the subsequent petition was filed in good faith. 11 U.S.C. § 362(c)(3)(B). The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* § 362(c)(3)(C).

In determining if good faith exists, the court considers the totality of the circumstances. *In re Elliot-Cook*, 357 B.R. 811, 814 (Bankr. N.D. Cal. 2006); see also Laura B. Bartell, *Staying the Serial Filer - Interpreting the New Exploding Stay Provisions of § 362(c)(3) of the Bankruptcy Code*, 82 Am. Bankr. L.J. 201, 209-10 (2008). An important indicator of good faith is a realistic prospect of success in the second case, contrary to the failure of the first case. See, e.g., *In re Jackola*, No. 11-01278, 2011 Bankr. LEXIS 2443, at \*6 (Bankr. D. Haw. June 22, 2011) (citing *In re Elliott-Cook*, 357 B.R. 811, 815-16 (Bankr. N.D. Cal. 2006)). Courts consider many factors—including those used to determine good faith under §§ 1307(c) and 1325(a)—but the two basic issues to determine good faith under § 362(c)(3) are:

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

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

At the hearing .....

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

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

The Motion to Extend the Automatic Stay filed by William James Watson, Sr. having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is **xxxxxxxxxx**

12. [23-22374](#)-C-13 WILLIE WATSON  
[RDG](#)-1 Peter Cianchetta

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
8-30-23 [[34](#)]

**Tentative Ruling:**

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 35 days' notice was provided. Dkt. 37.

**The Objection to Confirmation of Plan is sustained.**

The Chapter 13 Trustee, Lilian G. Tsang ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. 341 meeting has not been held;
2. The plan provides a 0% distribution to general unsecured creditors even though the debtor's schedules indicate disposable income that results in a dividend to general unsecured creditors
3. The plan is not feasible;
4. The claimed homestead exemption exceeds the limit for median homes sales in Sacramento County in 2022; and
5. The plan and petition have not been filed in good faith because the debtor's bank statements indicate he has \$81,190.51 more than what was reported on his schedules in his bank account.

Creditor, Bowles & Verna, LLP, also join in the Trustee's objection to confirmation.

**DISCUSSION**

A review of the docket shows that the 341 meeting was held on September 21, 2023, the debtor and counsel appeared and the meeting was concluded as to the debtor.

The plan proposes a monthly payment of \$1,161.12, which is less than all of the debtor's disposable income. That is reason to deny confirmation. 11 U.S.C. § 1325(b)(1).

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

The debtor's claimed homestead exemption exceeds the maximum amount for 2022 under Cal. Code Civ. Pro. § 704.730.

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

sustained.

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

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

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

**IT IS ORDERED** that the Objection is sustained.

13. [23-22374](#)-C-13 WILLIE WATSON  
[WTN](#)-1 Peter Cianchetta

OBJECTION TO CONFIRMATION OF  
PLAN BY BOWLES AND VERA LLP  
AND/OR MOTION FOR RELIEF FROM  
AUTOMATIC STAY O.S.T.  
9-29-23 [[74](#)]

BOWLES AND VERA LLP VS.

**No Tentative Ruling:**

The Objection has been set on Local Rule 9014-1(f)(3) on an order shortening time. The court entered an order to hear this motion on shortened time on October 2, 2023. Dkt. 77.

<b>The Objection to Confirmation of Plan is <span style="color: red;">xxxxxxx</span></b>
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Creditor, Bowles and Verna LLP ("Creditor"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The plan was not filed in good faith; and
2. The debtor has failed to disclose offshore bank accounts that are under his name and debtor's son's name.

**DISCUSSION**

At the hearing .....

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

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

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

**IT IS ORDERED** that the Objection is xxxxxxxxxx

14. [22-22576](#)-C-13 CHRISTOPHER PAGUYO AND MOTION TO MODIFY PLAN  
[TLA](#)-2 THANA ACAMPORA PAGUYO 8-15-23 [[33](#)]  
Thomas Amberg

**Final Ruling:** No appearance at the October 4, 2023 hearing is required.  
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The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 50 days' notice was provided. Dkt. 38.

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

**The Motion to Modify Plan is granted.**

The debtors filed this Motion seeking to modify the terms of the confirmed plan pursuant to 11 U.S.C. § 1329.

No opposition to the Motion has been filed.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is granted, and the plan is confirmed.

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

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

The Motion to Modify Plan filed by the debtors, Christopher and Thana Paguyo, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that the Motion is granted, the Modified Chapter 13 Plan (Dkt. 37) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. Counsel for the debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the trustee will submit the proposed order to the court.

15. [22-21477](#)-C-13 VICTOR NAVARRO AND MOTION TO MODIFY PLAN  
[FF-3](#) KRISTINA ZAPATA NAVARRO 8-25-23 [[83](#)]  
Gary Fraley

Thru #16

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 40 days' notice was provided. Dkt. 89.

**The Motion to Modify Plan is denied.**

The debtors filed this Motion seeking to confirm the Modified Chapter 13 Plan (Dkt. 87) filed on August 25, 2023.

The Chapter 13 Trustee filed an Opposition (Dkt. 102) on September 18, 2023, opposing confirmation on the following grounds:

1. The debtor is delinquent \$7,765.00 and the plan fails to suspend the delinquency;
2. The plan fails the liquidation test;
3. The plan provides for the incorrect amount of postpetition arrears to Rushmore Loan Management;
4. The plan is not feasible, whether the motion for compensation below is approved or not;
5. The plan incorrectly accounts for payments already made to the Trustee; and
6. The debtors' motion and declarations are inconsistent as to debtor's income and expenses.

**DISCUSSION**

The debtor is \$7,765.00 delinquent in plan payments. Declaration, Dkt. 103. Delinquency indicates that the plan is not feasible and is reason to deny confirmation. See 11 U.S.C. § 1325(a)(6).

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

The debtor has non-exempt assets totaling \$1,180.16. The plan provides for a 0.00 percent dividend to unsecured claims, which is less than the 6.64 percent dividend necessary to meet the liquidation test. That is cause to deny confirmation. 11 U.S.C. § 1325(a)(4).

The plan mathematically requires a payment of \$3,161.14 per month, which is greater than the proposed \$2,891.45 payment.

The debtor has not demonstrated the plan is feasible because the plan terms require a higher payment than what is proposed. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

Upon review of the record, the court finds the plan does not comply with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is denied, and the plan is not confirmed.

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

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

The Motion to Modify Plan filed by the debtors, Victor Navarro, Jr. and Kristina Navarro, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

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



16. [22-21477](#)-C-13 VICTOR NAVARRO AND MOTION FOR COMPENSATION FOR  
FF-4 KRISTINA ZAPATA NAVARRO GARY RAY FRALEY, DEBTORS  
Gary Fraley ATTORNEY(S)  
8-25-23 [[90](#)]

**Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 40 days' notice was provided. Dkt. 95.

**The Motion for Allowance of Professional Fees is granted.**

Gary Fraley filed this First interim request seeking approval of compensation for attorney services provided to debtors, Victor Navarro, Jr. and Kristina Navarro.

Fees are requested for the period June 14, 2022, through August 25, 2023. The movant requests fees in the amount of \$4,020.00 and costs in the amount of \$82.15.

**OPPOSITION**

The Chapter 13 Trustee filed an opposition (dkt. 105) on September 18, 2023, opposing the fee application on the following grounds:

1. The debtors' modified plan that is set for confirmation at Item 14 above is not feasible.

**DISCUSSION**

**Hourly Fees**

The court finds that the hourly rates are reasonable and that the movant effectively used appropriate rates for the services provided. First interim fees in the amount of \$4,020.00 are approved pursuant to 11 U.S.C. § 331, and subject to final review pursuant to 11 U.S.C. § 330, and authorized to be paid by the Chapter 13 trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 13 case.

**Costs**

First interim Costs in the amount of \$82.15 are approved pursuant to 11 U.S.C. § 331, and subject to final review pursuant to 11 U.S.C. § 330, and authorized to be paid by the Chapter 13 trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 13 case.

The movant is allowed, and the Chapter 13 trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$4,020.00
Costs and Expenses	\$82.15

pursuant to this Motion as interim fees pursuant to 11 U.S.C. § 331 in this case.

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

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

The Motion for Allowance of Fees and Expenses filed by Gary Fraley ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that Movant is allowed the following fees and expenses as a professional of the Estate:

Movant, Professional employed by Victor Navarro, Jr. and Kristina Navarro,

Fees in the amount of \$4,020.00  
Expenses in the amount of \$82.15,

as an interim allowance of fees and expenses pursuant to 11 U.S.C. § 331 and subject to final review and allowance pursuant to 11 U.S.C. § 330.

**IT IS FURTHER ORDERED** that the Chapter 13 trustee is authorized to pay 100% of the fees and 100% of the costs allowed by this Order from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 13 case.

17. [20-23688](#)-C-13 LAURA/DONALD ENGLAND  
[FF](#)-10 Gary Fraley

MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF FRALEY AND  
FRALEY, PC FOR GARY RAY FRALEY,  
DEBTORS ATTORNEY(S)  
8-21-23 [[159](#)]

**No Tentative Ruling:**

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 44 days' notice was provided. Dckt. 163.

**The Motion for Allowance of Professional Fees is xxxxxx.**

Counsel for the debtor filed this Motion seeking additional compensation, beyond the fixed fee approved in connection with plan confirmation pursuant to Local Bankruptcy Rule 2016-1(c), for substantial and unanticipated work performed.

Fees are requested for the period May 6, 2022, through August 21, 2023. Applicant requests fees in the amount of \$2,916.00 and costs in the amount of \$16.95.

**TRUSTEE'S RESPONSE**

The Chapter 13 Trustee filed a response (dkt. 170) on September 20, 2023, representing she does not oppose the fee application, but that the debtors remain delinquent in the amount of \$13,751.50, the plan is not feasible and will not fund the requested attorney fees.

**APPLICANT'S RESPONSE**

The Applicant filed a response (dkt. 175) on September 25, 2023 requesting that the Trustee pay the requested fees and costs from the funds held by the Trustee.

**DISCUSSION**

At the hearing .....

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

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

The Motion for Allowance of Fees and Expenses filed by Gary Fraley ("Applicant"), Attorney having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

**IT IS ORDERED** that Application is xxxxxxxxxx