



**UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Department B - 510 19th Street
Bakersfield, California**

Hearing Date: Wednesday, November 6, 2024

At this time, when in-person hearings in Bakersfield will resume is to be determined. No persons are permitted to appear in court for the time being. All appearances of parties and attorneys shall be as instructed below.

Unless otherwise ordered, all matters before the Honorable René Lastreto II shall be simultaneously: (1) via **ZoomGov Video**, (2) via **ZoomGov Telephone**, and (3) 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.

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

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.

9:00 A.M.

1. [24-12003](#)-B-13 **IN RE: LYNETTE LISTER**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
9-23-2024 [\[32\]](#)

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

DISPOSITION: Dropped and taken off calendar.

NO ORDER REQUIRED.

An order dismissing the case was entered on October 23, 2024, Doc. #51. Accordingly, this Order to Show Cause will be taken off calendar as moot. No appearance is necessary.

2. [24-12003](#)-B-13 **IN RE: LYNETTE LISTER**
[LGT-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE
LILIAN G. TSANG
9-5-2024 [\[29\]](#)

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue the order.

An order dismissing the case was entered on October 23, 2024, Doc. #51. Accordingly, this objection will be OVERRULED as moot. No appearance is necessary.

3. [24-12003](#)-B-13 **IN RE: LYNETTE LISTER**
[LGT-2](#)

MOTION TO DISMISS CASE
9-27-2024 [\[34\]](#)

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

An order dismissing this case was entered on October 23, 2024. Doc. #51. The motion will be DENIED AS MOOT.

4. [24-12003](#)-B-13 **IN RE: LYNETTE LISTER**
[SKI-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY CREDITOR
SANTANDER CONSUMER USA INC.
8-30-2024 [\[25\]](#)

SANTANDER CONSUMER USA INC./MV
SHERYL ITH/ATTY. FOR MV.

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

DISPOSITION: Overruled as moot.

ORDER: The court will issue an order.

An order dismissing this case was entered on October 23, 2024. Doc.
#51. The objection will be OVERRULED AS MOOT.

5. [24-12205](#)-B-13 **IN RE: CESAR RODRIGUEZ HERNANDEZ AND**
[LGT-1](#) **MILAGROS RODRIGUEZ**

OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE LILIAN G. TSANG
9-23-2024 [\[16\]](#)

LILIAN TSANG/MV
DAVID CHUNG/ATTY. FOR DBT.

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

DISPOSITION: Denied as moot.

ORDER: The court will issue an order.

On October 22, 2024, the Debtors filed an Amended Chapter 13 Plan.
Doc. #21. Accordingly, the Trustee's Objection to the plan dated
July 31, 2024 (Doc. #16) is hereby DENIED AS MOOT.

6. [24-11213](#)-B-13 **IN RE: JEANNE CHRISTENSEN**
[LGT-2](#)

CONTINUED MOTION TO DISMISS CASE
9-4-2024 [\[26\]](#)

ROBERT WILLIAMS/ATTY. FOR DBT.

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Sustained or Continued.

ORDER: The minutes of the hearing will be the court's findings and conclusions. Order preparation determined at the hearing.

This matter was originally set for hearing on September 4, 2024. Doc. #24. It was continued to October 2, 2024, and then to this date. Doc. #45.

Chapter 13 trustee Lilian G. Tsang ("Trustee") objects to confirmation of the Chapter 13 Plan filed by Jeanne Louise Christensen ("Debtor") on May 3, 2024, on the following basis:

1. Debtor's Schedule I & J filed at the inception of the case indicate that Debtor's only income came from Social Security. However, Debtor testified that she has since obtained employment. Trustee requests copies of Debtor's pay advices, and that Debtor amend her Schedule I & J, as Trustee cannot determine feasibility otherwise.
2. Debtor has exempted real property which she later testified is in a Trust. Trustee has requested copies of all trust documents and cannot determine the liquidation value without them.

Doc. #19. On September 19, 2024, Debtor filed a Response stating as follows:

1. The job which Debtor alluded to during the 341 meeting did not come to fruition, but she has since obtained new employment. Her income is deposited directly into her bank account, and the Trustee has been provided with bank statements. An Amended Schedule I & J is forthcoming.
2. A copy of the trust documents has been provided to the Trustee.

Doc. #34. On September 25, 2024, the Trustee filed a Reply stating:

1. Trustee received Debtor's bank statement from California Bank & Trust for August 2024. The only deposit showing for the month of August is \$12,000.00. Amended Schedules I and J have not been filed for the change in budget, and no further information has been offered by the Debtor. Therefore, the Trustee cannot recommend confirmation at this time.
2. Trustee has received the requested trust documents and is satisfied with the exemption.

Doc. #38. On September 30, 2024, Debtors filed an Amended Schedule I&J. Doc. #40. At the October 2, 2024, hearing, the parties agreed to a continuance to give the parties additional time to resolve the Objection. Unless this Objection is withdrawn, this matter will proceed as scheduled to determine if the Debtor has provided bank statements and that the Amended Schedule I&J to resolve the Trustee's concerns. If so, this Objection will be OVERRULED. If not, the Objection may be SUSTAINED, or this matter may be continued.

7. [23-10821](#)-B-13 **IN RE: RICHARD MONHEIM AND JESICA
[RSW-2](#) FAGER-MONHEIM**

MOTION TO AVOID LIEN OF STATES RECOVERY SYSTEMS, INC.
9-19-2024 [\[35\]](#)

JESICA FAGER-MONHEIM/MV
ROBERT WILLIAMS/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.

Richard Monheim and Jessica Fager-Monheim ("Debtors") move for an order avoiding a judicial lien pursuant to 11 U.S.C. § 522(f) in favor of States Recovery Systems, Inc., ("Creditor") in the sum of \$9,976.37 and encumbering residential real property located at 1007 Canyon Drive East, Tehachapi, California ("Property"). Doc. #35.

Debtor complied with Fed. R. Bankr. P. 7004(b)(3) by serving Creditor's VP of Operations via first class mail on October 9, 2024. Doc. #40.

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 7 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.

To avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 522(f)(1); *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting *In re Mohring*, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), *aff'd*, 24 F.3d 247 (9th Cir. 1994)).

Here, a judgment was entered against Debtors in favor of Creditor in the amount of \$9,976.37 on January 9, 2023. Doc. #37 (*Exh. 4*). The abstract of judgment was issued on February 23, 2023, and was recorded in Kern County on March 10, 2023. *Id.* That lien attached to Debtor's interest in Property. *Id.*; Doc. #38. Debtor estimates that the current amount owed on account of this lien is \$9,976.37. Doc. #35.

As of the petition date, Property had an approximate value of \$381,700.00. Doc. #1 (*Sched. A/B*). Debtors claimed a \$339,203.00 exemption in Property pursuant to Cal. Code Civ. Proc. ("CCP") § 704.730. Doc. #1 (*Sched. C*).

Property is encumbered by a first deed of trust in favor of LoanCare LLC ("LoanCare") in the amount of \$248,624.00. Doc. #1 (*Sched. D*). Property's encumbrances can be illustrated as follows:

Creditor	Amount	Recorded	Status
1. LoanCare	\$348,624.00		Unavoidable
2. Creditor	\$9,976.37	03/10/23	Avoidable

When a debtor seeks to avoid multiple liens under § 522(f)(1) and there is equity to which liens can attach, the liens must be avoided in the reverse order of their priority. *Bank of Am. Nat'l Tr. & Sav. Ass'n v. Hanger (In re Hanger)*, 217 B.R. 592, 595 (B.A.P. 9th Cir. 1997), *aff'd*, 196 F.3d 1292 (9th Cir. 1999). Liens already avoided are excluded from the exemption impairment calculation. *Ibid.*; § 522(f)(2)(B). Here, there is only one creditor against who avoidance is sought.

"Under the full avoidance approach, as used in *Brantz*, the only way a lien would be avoided 'in full' was if the debtor's gross equity were equal to or less than the amount of the exemption." *Bank of Am. Nat'l Tr. & Sav. Ass'n v. Hanger (In re Hanger)*, 217 B.R. 592, 596 (B.A.P. 9th Cir. 1997), *aff'd*, 196 F.3d 1292 (9th Cir. 1999), citing *In re Brantz*, 106 B.R. 62, 68 (Bankr. E.D. Pa. 1989) ("Avoidance of all judicial liens results unless (3) [the result of deducting the debtor's allowable exemptions and the sum of all liens not avoided from the value of the property] is a positive figure."), citing *In re Magosin*, 75 B.R. 545, 547 (Bankr. E.D. Pa. 1987) (judicial lien was avoidable in its entirety where equity is less than exemption).

This lien is the most junior lien subject to avoidance and there is not any equity to support the lien. Strict application of the § 522(f)(2) formula with respect to Creditor's junior lien is illustrated as follows:

Amount of judgment lien	\$9,976.37
Total amount of unavoidable liens	+ \$348,624.00
Debtor's claimed exemption in Property	+ \$339,203.00
<i>Sum</i>	= \$697,803.37
Debtor's claimed value of interest absent liens	- \$381,700.00
Extent lien impairs exemption	= \$316,103.37

All Points Capital Corp. v. Meyer (In re Meyer), 373 B.R. 84, 91 (B.A.P. 9th Cir. 2007); accord. *Hanger* 217 B.R. at 596, *Higgins v. Household Fin. Corp. (In re Higgins)*, 201 B.R. 965, 967 (B.A.P. 9th Cir. 1996); cf. *Brantz*, 106 B.R. at 68, *Magosin*, 75 B.R. at 549-50, *In re Piersol*, 244 B.R. 309, 311 (Bankr. E.D. Pa. 2000). Since there is no equity for liens to attach and this case does not involve fractional interests or co-owned property with non-debtor third parties, the § 522(f)(2) formula can be re-illustrated using the *Brantz* formula with the same result:

Fair market value of Property	\$381,700.00
Total amount of unavoidable liens	- \$348,624.00
Homestead exemption	- 339,203.00
Remaining equity for judicial liens	= (\$306,127.00)
Creditor's judicial lien	- \$9,976.37
Extent Debtor's exemption impaired	= (\$316,103.37)

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is insufficient equity to support any judicial liens. Therefore, the fixing of Creditor's judicial lien impairs Debtor's exemption in the Property and its fixing will be avoided.

Debtor has established the four elements necessary to avoid a lien under § 522(f)(1). Accordingly, this motion will be GRANTED. The proposed order shall state that Creditor's lien is avoided from the subject Property only and include a copy of the abstract of judgment as an exhibit.

8. [24-10373](#)-B-13 **IN RE: MARIA RAMIREZ**
[DW-1](#)

MOTION TO EXTEND THE CLAIMS DEADLINE AND ALLOW
ITS CLAIM AS TIMELY
9-23-2024 [\[72\]](#)

AMERICAN EXPRESS NATIONAL BANK/MV
D. GARDNER/ATTY. FOR DBT.
DENNIS WINTERS/ATTY. FOR MV.
RESPONSIVE PLEADING

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.

American Express National Bank ("Creditor") moves for an extension of the claims deadline pursuant to Fed. R. Bankr. P. 3002(c)(6). Doc. #72. The moving papers aver that the original Proof of Claim Deadline in this case was set for May 1, 2024. Doc. #11. On April 2, 2024, debtor Maria Ramirez ("Debtor") filed an Amended Schedule F to include Creditor, which had been omitted from the Debtor's original Schedule F. Doc. #14. Creditor avers, however, that it was not served with Notice of the Amendment nor with any subsequent documents filed in the case prior to the expiration of the bar date. Doc. #72.

On September 26, 2024, Debtor filed a Non-Opposition to this motion. Doc. #76.

This motion was set for hearing on 28 days' notice as required by Local Rule of Practice ("LBR") 9014-1(f)(1). Thus, pursuant to LBR 9014-1(f)(1)(B), the failure of any party in interest (including but not limited to creditors, the debtor, the U.S. Trustee, or any other properly-served party in interest) to file written opposition at least 14 days prior to the hearing may be deemed a waiver of any such opposition to the granting of the motion. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). When there is no opposition to a motion, the defaults of all parties in interest who failed to timely respond will be entered, and, in the absence of any opposition, the movant's 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). Because the court will not materially alter the relief requested by the moving party, an actual hearing is unnecessary when an unopposed movant has made a prima facie case for the requested relief. *See Boone v. Burk (In re Eliapo)*, 468 F.3d 592 (9th Cir. 2006).

No party in interest timely filed written opposition (except for Debtor who filed a non-opposition), and the defaults of all nonresponding parties will be entered.

Fed. R. Bankr. Pro. 3002(c)(6) states:

On motion filed by a creditor before or after the expiration of the time to file a proof of claim, the court may extend the time by not more than 60 days from the date of the order granting the motion. The motion may be granted if the court finds that the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim.

The court agrees that the notice provided Creditor was inadequate under the circumstances to give Creditor a reasonable time to file a proof of claim. Moreover, Debtor has indicated his non-opposition to the extension. The Chapter 13 Trustee has not opposed the motion either. Accordingly, this motion will be GRANTED. The order shall provide that as to movant only, the claim deadline is extended to January 3, 2025.

9. [24-11688](#)-B-13 **IN RE: LAUTALA TUPOU**
[LGT-1](#)

MOTION TO CONFIRM PLAN
9-17-2024 [\[46\]](#)

LAUTALA TUPOU/MV
MATTHEW RESNIK/ATTY. FOR DBT.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion will be DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

LBR 9004-2(a)(6), (b)(5), (b)(6), (e)(3), LBR 9014-1(c), and (e)(3) are the rules about Docket Control Numbers ("DCN"). These rules require a DCN to be in the caption page on all documents filed in every matter with the court and each new motion requires a new DCN. The DCN shall consist of not more than three letters, which may be the initials of the attorney for the moving party (e.g., first, middle, and last name) or the first three initials of the law firm for the moving party, and the number that is one number higher than the number of motions previously filed by said attorney or law firm in connection with that specific bankruptcy case. Each separate matter must have a unique DCN linking it to all other related pleadings.

On August 13, 2024, the Trustee filed an Objection to Confirmation in this matter, which was entered on the docket with DCN LGT-1. Doc. #31. On September 19, 2024, Lautala Tupou ("Debtor") filed the instant *Motion to Confirm* her Amended Plan and did so under DCN LGT-1. Doc. #46. This was incorrect and does not comply with the local

rules. Each separate matter filed with the court must have a different DCN.

For the above reason, this motion will be DENIED WITHOUT PREJUDICE.

10. [24-11093](#)-B-13 **IN RE: LUIS RODRIGUEZ**
[LGT-2](#)

MOTION TO DISMISS CASE
9-16-2024 [\[26\]](#)

ANH NGUYEN/ATTY. FOR DBT.

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

DISPOSITION: Granted.

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

The chapter 13 trustee asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) for unreasonable delay by Luis Rodriguez ("Debtor") that is prejudicial to creditors. Doc. #26. Debtor did not oppose.

Unless the trustee's motion is withdrawn before the hearing, 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 amount 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.

Here, the chapter 13 trustee asks the court to dismiss this case under 11 U.S.C. § 1307(c)(1) for unreasonable delay by Debtor that is prejudicial to creditors for failure to confirm a Chapter 13 Plan. Doc. #26.

Under 11 U.S.C. § 1307(c), the court may convert or dismiss a case, whichever is in the best interests of creditors and the estate, for cause. "A debtor's unjustified failure to expeditiously accomplish

any task required either to propose or to confirm a chapter 13 plan may constitute cause for dismissal under § 1307(c)(1)." *Ellsworth v. Lifescape Med. Assocs., P.C. (In re Ellsworth)*, 455 B.R. 904, 915 (B.A.P. 9th Cir. 2011). There is "cause" for dismissal under 11 U.S.C. § 1307(c)(1) for unreasonable delay.

In addition, the trustee has reviewed the schedules and determined that the Debtor's assets are of no benefit to the estate. There are unencumbered assets with the Debtor's claimed value of \$8,335.35 consisting of hobby trading cards. Given the Chapter 7 Trustee's commission on liquidation at that value and not including sale costs, the likely distribution is 2.7% on allowed unsecured claims. Because there is no significant equity to be realized for the benefit of the estate, dismissal is in the best interests of creditors and the estate. Doc. #28.

Accordingly, the motion will be GRANTED and the case dismissed.

11. [24-12397](#)-B-13 **IN RE: WENDY MONTANIO**
[LGT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY LILIAN G. TSANG
10-10-2024 [\[18\]](#)

LILIAN TSANG/MV
ROBERT WILLIAMS/ATTY. FOR DBT.

After posting the original pre-hearing dispositions, the court has modified its intended ruling on this matter.

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

DISPOSITION: Continued to December 4, 2024, at 9:00 a.m.

ORDER: The court will issue an order.

Chapter 13 trustee Lilian G. Tsang ("Trustee") objects to confirmation of the *Chapter 13 Plan* filed by Wendy Montanio ("Debtor") on September 1, 2024, on the following basis:

1. As of the filing of this motion, the 341 meeting of creditors has not been concluded due to Debtor's failure to provide her 2023 tax returns.
2. Debtor should file Amended Schedules I&J and submit pay advices to account for new employment.

Doc. 18. On October 23, 2024, the Trustee filed a Supplemental Objection stating:

1. The 341 meeting of creditors has been concluded and that portion of Trustee's Objection has been resolved.
2. Debtor must still file Amended Schedules I&J and submit pay advices to account for new employment.
3. Debtor must file Amended Schedules A/B to account for tax refunds as reflected in her 2023 tax returns.

4. The plan contains special provisions which conflicts with other plan provisions and cannot be administered without clarification.

Doc. #24.

This objection will be CONTINUED to December 4, 2024. at 9:00 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or the objection to confirmation is withdrawn, the Debtor shall file and serve a written response to the Objection not later than **14 days before the hearing**. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Any reply shall be served no later than **7 days before the hearing**.

If the Debtor elects 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 **7 days before the hearing**. If the Debtor does not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

12. [24-12397](#)-B-13 **IN RE: WENDY MONTANIO**
[RAS-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY TOWD POINT MORTGAGE
TRUST 2019-3, U.S. BANK NATIONAL ASSOCIATION
10-14-2024 [\[21\]](#)

TOWD POINT MORTGAGE TRUST 2019-3, U.S. BANK NATIONAL
ROBERT WILLIAMS/ATTY. FOR DBT.
KELLI BROWN/ATTY. FOR MV.

After posting the original pre-hearing dispositions, the court has modified its intended ruling on this matter.

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

DISPOSITION: Continued to December 4, 2024, at 9:00 a.m.

ORDER: The court will issue an order.

Towd Point Mortgage Trust 2019-3, U.S. Bank National ("Creditor") objects to confirmation of the *Chapter 13 Plan* filed by Wendy Montanio ("Debtor") on September 1, 2024, on the following basis:

1. The plan fails to provide for either the prepetition arrearage or the ongoing payments owed to Creditor.

Doc. 21.

This objection will be CONTINUED to December 4, 2024. at 9:00 a.m. Unless this case is voluntarily converted to chapter 7, dismissed, or the objection to confirmation is withdrawn, the Debtor shall file

and serve a written response to the Objection not later than **14 days before the hearing**. The response shall specifically address each issue raised in the objection to confirmation, state whether the issue is disputed or undisputed, and include admissible evidence to support the Debtors' position. Any reply shall be served no later than **7 days before the hearing**.

If the Debtor elects 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 **7 days before the hearing**. If the Debtor does not timely file a modified plan or a written response, this objection will be sustained on the grounds stated in the objection without further hearing.

10:00 AM

1. [24-12016](#)-B-7 **IN RE: DANIEL SOLIS**
[SKI-1](#)

MOTION FOR RELIEF FROM AUTOMATIC STAY
9-25-2024 [\[12\]](#)

TD BANK, N.A./MV
D. GARDNER/ATTY. FOR DBT.
SHERYL ITH/ATTY. FOR MV.

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

DISPOSITION: Granted in part and denied as moot in part.

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

TD Bank ("Movant") seeks relief from the automatic stay under 11 U.S.C. §§ 362(d)(1) and (d)(2) with respect to a 2022 Nissan Maxima (VIN 1N4AA6EV6NC507912) ("Vehicle"). Doc. #12. Movant also requests waiver of the 14-day stay of Fed. R. Bankr. P. 4001(a)(3). *Id.*

No party in interest timely filed written opposition. This motion will be granted in part and denied as moot in part. Debtor's Statement of Intention indicated that the Vehicle would be surrendered.

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 amount 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.

11 U.S.C. § 362(c)(2)(C) provides that the automatic stay of § 362(a) continues until a discharge is granted. The debtors' discharge was entered on October 24, 2024. Doc. #23. Therefore, the automatic stay terminated with respect to the Debtor on October 24, 2024. This motion will be DENIED AS MOOT IN PART as to the Debtors' interest and will be GRANTED IN PART for cause shown as to the chapter 7 trustee's (or estate's) interest.

11 U.S.C. § 362(d) (1) allows the court to grant relief from the stay for cause, including the lack of adequate protection. "Because there is no clear definition of what constitutes 'cause,' discretionary relief from the stay must be determined on a case-by-case basis." *In re Mac Donald*, 755 F.2d 715, 717 (9th Cir. 1985).

11 U.S.C. § 362(d) (2) allows the court to grant relief from the stay if the debtor does not have an equity in such property and such property is not necessary to an effective reorganization.

After review of the included evidence, the court finds that "cause" exists to lift the stay with respect to the chapter 7 trustee because Debtor has missed one pre-petition payment in the amount of \$1,030.41 and two post-petition payments in the amount of \$2,060.82. The Movant has produced evidence that Debtor is delinquent at least \$3,091.23. Docs. #15-18.

The court also finds that the Debtor does not have any equity in the Vehicle and the Vehicle is not necessary to an effective reorganization because Debtor is in chapter 7. The Vehicle is valued at \$33,000.00 and Debtor owes \$44612.56. Doc. #18.

Accordingly, the motion will be GRANTED pursuant to 11 U.S.C. §§ 362(d) (1) and (d) (2) to permit the Movant to dispose of its collateral pursuant to applicable law and to use the proceeds from its disposition to satisfy its claim. No other relief is awarded. According to the Debtor's Statement of Intention, the Vehicle will be surrendered. The motion will be DENIED AS MOOT IN PART as to the Debtor's interest under § 362(c) (2) (C).

The 14-day stay of Fed. R. Bankr. P. 4001(a) (3) will be ordered waived because the Vehicle is a depreciating asset.

2. [24-12827](#)-B-7 **IN RE: ELVIRA ALONZO**

ORDER TO SHOW CAUSE - FAILURE TO PAY FEES
10-18-2024 [\[35\]](#)

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: The minutes of the hearing will be the court's findings and conclusions.

ORDER: The court will issue an order.

Elvira Alonzo ("Debtor") filed an *Amended Verification and Master Address List* on October 4, 2024. Doc. #16. A fee of \$34.00 is required at the time of filing that amendment. A *Notice of Payment Due* was served on Debtor on October 18, 2024. Doc. #28.

On October 18, 2024, the Clerk of the court issued an *Order to Show Cause re Dismissal of Contested Matter or Imposition of Sanctions* directing Debtor to appear at the hearing and show cause why the motion should not be stricken, sanctions imposed on the party filer

and/or their counsel, or other relief ordered for failure to comply with the provisions of 28 U.S.C. § 1930(b). Doc. #35.

This matter will proceed as scheduled. If the filing fee of \$34.00 is not paid prior to the hearing, the amendment may be stricken, and sanctions imposed including withholding entry of discharge for non-payment of fees under Fed. R. Banky. Proc. 4004 (c)(G) on the filer on the grounds stated in the OSC.

3. [23-11559](#)-B-7 **IN RE: PREMIER LABOR CONTRACTING, INC.**
[JMV-3](#)

MOTION FOR ADMINISTRATIVE EXPENSES
10-10-2024 [\[51\]](#)

JEFFREY VETTER/MV
LEONARD WELSH/ATTY. FOR DBT.
JEFFREY VETTER/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

This motion will be DENIED WITHOUT PREJUDICE for failure to comply with the Local Rules of Practice ("LBR").

For motions filed on less than 28 days' notice, LBR 9014-1(f)(2)(C) requires the movant to notify respondents written opposition is not required and any opposition to the motion must be presented at the hearing.

This motion was filed and served on October 10, 2024, and set for hearing on November 6, 2024. Docs. ##51-52. October 10, 2024, is 27 days before November 6, 2024. Therefore, this motion was set for hearing on less than 28 days' notice under LBR 9014-1(f)(2). Nevertheless, the notice and amended notice both stated:

Opposition, if any to the granting of the motion must be (1) in writing, (2) served and filed on the parties identified attached hereto and filed with the Court by the responding party at least fourteen (14) calendar days preceding the date or continued date of the hearing according to Local Rule 9014-1(f)(1). The Court may not hear opposition to the Application at oral argument if written opposition to the Application has not been filed. Failure to timely file written opposition may be deemed a waiver of any opposition to the granting of the Application or may result in the imposition of sanctions pursuant to Local Rule Number 9014

Doc. #52. This is incorrect. Motions noticed less than 28 days before the hearing are deemed brought pursuant to LBR 9014-1(f)(2). The notice should have informed respondents that written opposition was

not required, and opposition, if any, shall be presented at the hearing. If opposition is presented, or if there is other good cause, the court may continue the hearing to permit the filing of evidence and briefs. Therefore, the notice was materially deficient because the respondents were told to file and serve written opposition even though it was not necessary. Thus, interested parties may be deterred from opposing the motion or from appearing at the hearing.

For the above reason(s), this motion will be DENIED WITHOUT PREJUDICE.

4. [24-11864](#)-B-7 **IN RE: JAZMINE VANCE**
[KEH-1](#)

AMENDED MOTION FOR RELIEF FROM AUTOMATIC STAY
9-6-2024 [\[20\]](#)

BALBOA THRIFT & LOAN/MV
NEIL SCHWARTZ/ATTY. FOR DBT.
KEITH HERRON/ATTY. FOR MV.

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

DISPOSITION: Denied without prejudice.

ORDER: The court will issue an order.

Balboa Thrift & Loan ("Movant") seeks relief from the automatic stay under 11 U.S.C. § 362(d)(1) and (d)(2) with respect to 2022 Kia K5 GT-Line Sedan (VIN: 5XXG64J28NG090041). Doc. #20. Movant also requests waiver of the 14-day of Federal Rule of Bankruptcy Procedure ("Rule") 4001(a)(3). *Id.*

This motion will be DENIED WITHOUT PREJUDICE for failure to comply with Rules 4001(a)(1) and 7004.

First, the notice did not comply with LBR 9014-1(d)(3)(B)(i), which requires the notice of hearing to include the names and addresses of parties who must be served with any opposition. Counsel is advised to review the local rules and ensure procedure compliance in subsequent matters.

Second, Rule 4001(a)(1) requires motions for relief from the automatic stay to be made in accordance with Rule 9014. Rule 9014(b) requires motions in contested matters to be served upon the parties against whom relief is being sought pursuant to Rule 7004. Since this motion will affect property of the estate, the Chapter 7 Trustee must be served in accordance with Rule 7004.

Rule 7004 allows service in the United States by first class mail by "mailing a copy of the summons and complaint to . . . the place where the individual regularly conducts a business[.]" Rule 7004(b)(1). Electronic service is precluded here because Rule 9036(e) "does not apply to any paper required to be served in accordance with Rule 7004."

Here, the certificate of service states that the Trustee was served by "Electronic Service" under Federal Rule of Civil Procedure ("Civ. Rule") 5(b)(2)(E), *as incorporated by* Rules 7005 and 9036. Doc. #25 at 6 B. 1. Trustee received electronic service only and should have been served by mail as the representative of the estate's interest, which would be impaired if the relief sought is granted.

Accordingly, notice and service are deficient, this motion will be DENIED WITHOUT PREJUDICE.

5. [24-10389](#)-B-7 **IN RE: TEJRAJVIR SINGH**
[NES-3](#)

MOTION TO AVOID LIEN OF BMO HARRIS BANK N.A.
10-2-2024 [\[23\]](#)

TEJRAJVIR SINGH/MV
NEIL SCHWARTZ/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.

Tejrajvir Singh ("Debtor") moves for an order avoiding a judicial lien pursuant to 11 U.S.C. § 522(f) in favor of BMO Harris Bank N.A. ("Creditor") in the sum of \$407,075.58 and encumbering residential real property located at 9821 Sentinel Peak Place, Bakersfield, CA 93311 ("Property"). Doc. #23.

Debtor complied with Fed. R. Bankr. P. 7004(b)(3) by serving Creditor's registered agent for service of process via first class mail on October 2, 2024. Doc. 28. Debtor also complied with Rule 7004(h), which requires service to be made by certified mail and addressed to an officer, unless one of three exceptions specified in subsections (h)(1) to (3) have been met. *Id.* While the relevant information confirming this is spread across several filings, it appears that Debtor served Creditor's registered agent by first class mail sent to 330 N. Brand, Suite 700, Glendale, CA 91203, which is the address listed on the California Secretary of State's website Creditor's registered agent. Docs. #25, #27, #28. Debtor served Creditor's CEO David Hackett at 131 W. Monroe St., 5 East, Chicago, IL 60603 via certified mail. *Id.*

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 7 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.

To avoid a lien under 11 U.S.C. § 522(f)(1), the movant must establish four elements: (1) there must be an exemption to which the debtor would be entitled under § 522(b); (2) the property must be listed on the debtor's schedules as exempt; (3) the lien must impair the exemption; and (4) the lien must be either a judicial lien or a non-possessory, non-purchase money security interest in personal property listed in § 522(f)(1)(B). § 522(f)(1); *Goswami v. MTC Distrib. (In re Goswami)*, 304 B.R. 386, 390-91 (B.A.P. 9th Cir. 2003) (quoting *In re Mohring*, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992), *aff'd*, 24 F.3d 247 (9th Cir. 1994)).

Here, a judgment was entered against Debtor in favor of Creditor in the amount of \$407,075.58 on September 21, 2020. Doc. #25 (*Exhib. A*). The abstract of judgment was issued on September 25, 2020, and was recorded in Kern County on October 2, 2020. *Id.* That lien attached to Debtor's interest in Property. *Id.*; Doc. #26. Debtor estimates that the current amount owed on account of this lien is \$407,075.58. *Id.*

Debtor filed for Chapter 7 on February 22, 2024. Doc. #1. As of the petition date, Property had an approximate value of \$484,300.00. *Id. at Sched. A/B*. Debtor claimed a \$484,300.00 exemption in Property pursuant to Cal. Code Civ. Proc. ("CCP") § 704.730(a)(2). *Id. at Sched. C*. Property is encumbered by a first deed of trust in favor of Guild Mortgage ("Guild") in the amount of \$277,955.00. *Id. at Sched. D*.

The moving papers aver that Debtor has filed Amended Schedules C and D which reflect a homestead exemption of \$206,345.00 pursuant to C.C.P. § 704.730 and encumbrances consisting of \$277,955.00 owed to Guild and the BMO debt which is the subject of this motion to avoid lien. See Doc. #25 at *Exhib. B & C*. The docket does not reflect that any such amendments have been filed with the court to date. However, as the exemption purportedly claimed is less than what was originally filed, it should not affect the analysis of this motion, and the court will apply the lower exemption amount in its calculations. The encumbrances on the Property may be described as follows:

Creditor	Amount	Recorded	Status
1. Guild	\$277,955.00		Unavoidable
2. Creditor	\$407,075.58	9/21/20	Avoidable.

When a debtor seeks to avoid multiple liens under § 522(f)(1) and there is equity to which liens can attach, the liens must be avoided in the reverse order of their priority. *Bank of Am. Nat'l Tr. & Sav. Ass'n v. Hanger (In re Hanger)*, 217 B.R. 592, 595 (B.A.P. 9th Cir. 1997), *aff'd*, 196 F.3d 1292 (9th Cir. 1999). Liens already avoided are excluded from the exemption impairment calculation. *Ibid.*; § 522(f)(2)(B). Here, Debtor seeks to avoid only one lien.

"Under the full avoidance approach, as used in *Brantz*, the only way a lien would be avoided 'in full' was if the debtor's gross equity were equal to or less than the amount of the exemption." *Bank of Am. Nat'l Tr. & Sav. Ass'n v. Hanger (In re Hanger)*, 217 B.R. 592, 596 (B.A.P. 9th Cir. 1997), *aff'd*, 196 F.3d 1292 (9th Cir. 1999), citing *In re Brantz*, 106 B.R. 62, 68 (Bankr. E.D. Pa. 1989) ("Avoidance of all judicial liens results unless (3) [the result of deducting the debtor's allowable exemptions and the sum of all liens not avoided from the value of the property] is a positive figure."), citing *In re Magosin*, 75 B.R. 545, 547 (Bankr. E.D. Pa. 1987) (judicial lien was avoidable in its entirety where equity is less than exemption).

This lien is the most junior lien subject to avoidance and there is not any equity to support the lien. Strict application of the § 522(f)(2) formula with respect to Creditor's junior lien is illustrated as follows:

Amount of judgment lien	\$407,075.58
Total amount of unavoidable liens	+ \$277,955.00
Debtor's claimed exemption in Property	+ 206,345.00
<i>Sum</i>	= \$891,375.58
Debtor's claimed value of interest absent liens	- \$484,300.00
Extent lien impairs exemption	= \$407,075.58

All Points Capital Corp. v. Meyer (In re Meyer), 373 B.R. 84, 91 (B.A.P. 9th Cir. 2007); *accord. Hanger* 217 B.R. at 596, *Higgins v. Household Fin. Corp. (In re Higgins)*, 201 B.R. 965, 967 (B.A.P. 9th Cir. 1996); *cf. Brantz*, 106 B.R. at 68, *Magosin*, 75 B.R. at 549-50, *In re Piersol*, 244 B.R. 309, 311 (Bankr. E.D. Pa. 2000). Since there is no equity for liens to attach and this case does not involve fractional interests or co-owned property with non-debtor third parties, the § 522(f)(2) formula can be re-illustrated using the *Brantz* formula with the same result:

Fair market value of Property		\$484,300.00
Total amount of unavoidable liens	-	\$277,955.00
Homestead exemption	-	206,345.00
Remaining equity for judicial liens	=	\$0.00
Creditor's judicial lien	-	\$407,075.58
Extent Debtor's exemption impaired	=	(\$407,075.58)

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is insufficient equity to support any judicial liens. Therefore, the fixing of Creditor's judicial lien impairs Debtor's exemption in the Property and its fixing will be avoided.

Debtor has established the four elements necessary to avoid a lien under § 522(f)(1). Accordingly, this motion will be GRANTED. The proposed order shall state that Creditor's lien is avoided from the subject Property only and include a copy of the abstract of judgment as an exhibit.

10:30 AM

1. [24-12751](#)-B-11 **IN RE: BIKRAM SINGH AND HARSIMRAN SANDHU**
[FW-5](#)

CONTINUED MOTION TO BORROW
10-18-2024 [[49](#)]

HARSIMRAN SANDHU/MV
PETER FEAR/ATTY. FOR DBT.

NO RULING.

11:00 AM

1. [23-12838](#)-B-7 **IN RE: TONY/ELIZABETH GOWER**
[24-1007](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
4-18-2024 [\[1\]](#)

KAPITUS SERVICING, INC. V. GOWER
BRIAN HARVEY/ATTY. FOR PL.

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

DISPOSITION: Continued to January 8, 2025, at 11:00 am.

ORDER: The court will issue the order.

The court has reviewed the joint status report filed October 30, 2024. There have been informal document exchanges which have been recently completed. The parties state they are negotiating a settlement of this matter. The court is willing to grant another continuance to accommodate a settled resolution.

The status conference will be continued to January 8, 2025, at 11:00 am. A joint or unilateral status report shall be filed and served no later than December 30, 2024.

2. [24-11650](#)-B-13 **IN RE: BEDROS BALIAN**
[24-1021](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
7-31-2024 [\[1\]](#)

BALIAN V. LEWANDOWSKI
DISMISSED 10/18/24

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

DISPOSITION: Concluded and dropped from calendar.

ORDER: The court will prepare the order.

On this date, the court dismissed this adversary proceeding due to Plaintiff's failure to timely respond to an Order to Show Cause. See *Item #3, below*. Accordingly, this Status Conference is CONCLUDED and will be DROPPED from the calendar.

3. [24-11650](#)-B-13 **IN RE: BEDROS BALIAN**
[24-1021](#) [CAE-2](#)

ORDER TO SHOW CAUSE WHY ADVERSARY PROCEEDING
SHOULD NOT BE DISMISSED
10-8-2024 [\[20\]](#)

BALIAN V. LEWANDOWSKI
DISMISSED 10/18/24

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

DISPOSITION: Dismissed.

ORDER: The court will prepare the order.

On October 8, 2024, the court issued this Order to Show Cause why this adversary proceeding should not be dismissed on the grounds that (1) the court has entered an order modifying the automatic stay to permit the unlawful detainer proceeding at the heart of this adversary to proceed and (2) the underlying bankruptcy case has been dismissed. Doc. #20. The order advised Bedros Balian ("Balian"), the Plaintiff-Debtor, that a written response was due by October 23, 2024, and that if no written response was timely filed and served, the court may dismiss this adversary without further notice or hearing.

Balian did not file a written response by the October 23, 2024, deadline. This adversary is hereby DISMISS.

4. [23-12573](#)-B-7 **IN RE: JULIE BLACK**
[24-1019](#) [CAE-1](#)

CONTINUED STATUS CONFERENCE RE: COMPLAINT
7-11-2024 [\[1\]](#)

BLACK V. DEPARTMENT OF EDUCATION/AIDVANTAGE
NEIL SCHWARTZ/ATTY. FOR PL.

NO RULING.

11:30 AM

1. [24-11814](#)-B-7 **IN RE: LAWRENCE/VERONICA ALBITRE**

REAFFIRMATION AGREEMENT WITH VALLEY STRONG CREDIT UNION
8-21-2024 [\[15\]](#)

PATRICK KAVANAGH/ATTY. FOR DBT.

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

DISPOSITION: Denied.

ORDER: The court will issue an order.

Debtor's counsel will inform debtor that no appearance is necessary.

A Reaffirmation Agreement between Lawrence and Veronica Albitre ("Debtor") and Valley Strong Credit Union for a 2008 Jeep Wrangler ("Vehicle") was filed on August 21, 2024. Doc. #15.

11 U.S.C. § 524(c)(6)(A)(ii) states "An agreement between a holder of a claim and the debtor, the consideration for which, in whole or in part, is based on a debt that is dischargeable in a case under this title is enforceable only to any extent enforceable under applicable non-bankruptcy law, whether or not discharge of such debt is waived, only if the court approves such agreement as in the best interest of the debtor."

Here, the Vehicle is valued at \$12,003.00. The amount being reaffirmed by Debtors is \$15,820.14 with an 4.240% interest rate. Debtors have negative equity of \$3,817.14 with approximately 43 months (over three years) remaining on the loan and \$82.65 remaining in the budget every month according to the Debtors' amended schedules. Though there is no presumption of undue hardship because the lender is a Credit Union, reaffirming this debt is not in the Debtors' best interest. Approval of the reaffirmation agreement is DENIED.

2. [24-12525](#)-B-7 **IN RE: GREGORY DESME**

REAFFIRMATION AGREEMENT WITH NUVISION FEDERAL CREDIT UNION
9-16-2024 [\[12\]](#)

EMMANUEL FOBI/ATTY. FOR DBT.

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

DISPOSITION: Denied.

ORDER: The court will issue an order.

Debtor's counsel will inform debtor that no appearance is necessary.

A Reaffirmation Agreement between Gregory Desme ("Debtor") and Nuvision Credit Union ("Creditor") for a solar system was filed on September 16, 2024. Doc. #12.

11 U.S.C. § 524(c)(6)(A)(ii) states "An agreement between a holder of a claim and the debtor, the consideration for which, in whole or in part, is based on a debt that is dischargeable in a case under this title is enforceable only to any extent enforceable under applicable non-bankruptcy law, whether or not discharge of such debt is waived, only if the court approves such agreement as in the best interest of the debtor."

There is no presumption of undue hardship because the lender is a Credit Union. The payment of \$206.82 is not listed on Schedule J. Doc. #1. Subtracting the solar system payment from Debtor's net monthly income of \$55.70 would leave a deficit of \$151.12 per month. The evidence submitted by the Debtor shows a negative monthly expense deficit. Though the court does not presume reaffirmation is an undue hardship, the amount of the monthly deficit is evidence of undue hardship without the presumption.

Independently though, with the remaining term, current value of the solar system, reaffirmation of this debt is not in the Debtor's best interest. Nothing prevents the Debtor from continuing to make payments to the Creditor nor the Creditor from accepting those payments. Approval of the reaffirmation agreement is DENIED.