

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher M. Klein

Bankruptcy Judge

Sacramento, California

November 8, 2022 at 1:30 p.m.

1. [20-25603](#)-C-13 NEKO KIM MOTION TO MODIFY PLAN
[MRL](#)-1 Mikalah Liviakis 9-26-22 [[27](#)]

Final Ruling: No appearance at the November 8, 2022 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 43 days' notice was provided. Dkt. 32.

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).

<p>The Motion to Modify Plan is granted.</p>

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, Neko Yunkyong Kim, 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. 28) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is

November 8, 2022 at 1:30 p.m.

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.

2. [21-24204](#)-C-13 MARIA DEL SOCORRO ORTIZ NOTICE OF DEFAULT AND MOTION TO
 Peter Macaluso DISMISS CASE FOR FAILURE TO
 MAKE PLAN PAYMENTS
 9-9-22 [[63](#)]

Tentative Ruling:

The Motion was ordered by the court to be heard on November 8, 2022 at 1:30 p.m. Dkt. 75.

The Motion to Dismiss is granted, and the case is dismissed.

The Chapter 13 Trustee filed this Motion To Dismiss arguing that cause for dismissal exists because the debtor is \$11,256.00 delinquent in plan payments. At the prior hearing, counsel for the debtor represented that the proceeds from the sale of the property would cure the default amount.

Failure to maintain plan payments constitute evidence of unreasonable delay by the debtor that is prejudicial to creditors.

Based on the foregoing, cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c)(1). Furthermore, the court finds that dismissal, and not conversion, is in the best interest of creditors and the Estate. The Motion is granted, and the case is dismissed.

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 Dismiss the Chapter 13 case filed by the Chapter 13 Trustee, Russell Greer, 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 to Dismiss is granted, and the case is dismissed, the court having found that dismissal, and not conversion, is in the best interest of creditors and the Estate.

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 39 days' notice was provided. Dkt. 57.

The Motion to Confirm is denied.

The debtors filed this Motion seeking to confirm the First Amended Chapter 13 Plan (Dkt. 54) filed on September 30, 2022.

CHAPTER 13 TRUSTEE OPPOSITION

The Chapter 13 Trustee filed an Opposition (Dkt. 75) on October 18, 2022, opposing confirmation on the following grounds:

1. Plan relies on motions to avoid liens that have not yet been decided;
2. Debtors have not filed their 2021 tax returns yet;
3. The plan is not feasible because it does not fully provide for priority claims; and
4. The plan does not pay off Class 2 claims within the 60 month plan period.

CREDITOR OPPOSITION

Creditor, Benjamin Villanueva ("Creditor") filed an Opposition (Dkt. 78) on October 25, 2022, opposing confirmation on the following grounds:

1. Debtors exceed the debt limits of § 109(e);
2. Debtors income is inconsistent and incomplete;
3. Debtors haven't properly listed all their assets, including assets held in the estate of their Chapter 7 case; and
4. The plan was filed in bad faith.

DISCUSSION

The plan relies on avoiding the secured liens of Hudson and Keyes, LLC and Benjamin Villanueva Zamora. Before the court enters an order avoiding those liens, the plan's feasibility is uncertain.

The debtor has not demonstrated the plan is feasible because the plan terms require a higher payment than what is proposed to pay priority

claims and to pay off claims within the plans term of months. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

The debtor has not filed all required tax returns. 11 U.S.C. §§ 1308, 1325(a)(9). That is cause to deny confirmation. 11 U.S.C. § 1325(a)(1).

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 debtors, Reece and Rodina Ventura, 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.

4. [22-21112](#)-C-13 REECE/RODINA VENTURA
[PGM](#)-2 Peter Macaluso

MOTION TO AVOID LIEN OF HUDSON
& KEYSE LLC
10-11-22 [[61](#)]

Final Ruling: No appearance at the November 8, 2022 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 28 days' notice was provided. Dkt. 66.

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 Avoid Judicial Lien is Granted.
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This Motion requests an order avoiding the judicial lien of Hudson & Keyse LLC, and assignee Collect Access LLC ("Creditor") against property of the debtor commonly known as 10171 McCarron Way, Sacramento, California ("Property").

A judgment was entered against the debtor in favor of Creditor in the amount of \$6988.73. Exhibit A, Dkt. 65. An abstract of judgment was recorded with Sacramento County on January 10, 2019, that encumbers the Property. *Id.*

Pursuant to Debtor's Schedule A, the subject real property has an approximate value of \$685,000 as of the petition date. Dkt. 1. The consensual liens total \$387,497.77 as of the commencement of this case are stated on Proof of Claim 11-1. Debtor has claimed an exemption pursuant to California Code of Civil Procedure § 704.730 in the amount of \$469,000.00 on Schedule C. Dkt. 1.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of the judicial lien impairs Debtor's exemption of the real property, and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

An order substantially in the following form shall be prepared and issued by the court:

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

The Motion to Avoid Judicial Lien pursuant to 11 U.S.C. § 522(f) filed by the debtor Reece and Rodina Ventura having been presented to the court, and upon review of the

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

IT IS ORDERED that the motion is granted, and the judgment lien of Hudson and Keyse LLC, assignee to Collect Access LLC, California Superior Court for Sacramento County Case No. 07AM11234, recorded on January 10, 2019, Document No. 201901100449, with the Sacramento County Recorder, against the real property commonly known as 10171 McCarron Way, Sacramento, California, is avoided in its entirety pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions of 11 U.S.C. § 349 if this bankruptcy case is dismissed.

5. [22-21112](#)-C-13 REECE/RODINA VENTURA
[PGM](#)-3 Peter Macaluso

MOTION TO AVOID LIEN OF
BENJAMIN ZAMORA VILLANUEVA
10-11-22 [[67](#)]

Final Ruling: No appearance at the November 8, 2022 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 28 days' notice was provided. Dkt. 66.

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 Avoid Judicial Lien is Granted.
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This Motion requests an order avoiding the judicial lien of Benjamin Zamora Villanueva ("Creditor") against property of the debtor commonly known as 10171 McCarron Way, Sacramento, California ("Property").

A judgment was entered against the debtor in favor of Creditor in the amount of \$125,000. Exhibit A, Dkt. 70. An abstract of judgment was recorded with Sacramento County on April 30, 2019, that encumbers the Property. *Id.*

Pursuant to Debtor's Schedule A, the subject real property has an approximate value of \$685,000 as of the petition date. Dkt. 1. The consensual liens total \$387,497.77 as of the commencement of this case are stated on Proof of Claim 11-1. Debtor has claimed an exemption pursuant to California Code of Civil Procedure § 704.730 in the amount of \$469,000.00 on Schedule C. Dkt. 1.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of the judicial lien impairs Debtor's exemption of the real property, and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

An order substantially in the following form shall be prepared and issued by the court:

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

The Motion to Avoid Judicial Lien pursuant to 11 U.S.C. § 522(f) filed by the debtor Reece and Rodina Ventura having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause

appearing,

IT IS ORDERED that the motion is granted, and the judgment lien of Benjamin Zamora Villanueva , California Superior Court for Sacramento County Case No. 34-2015-00187237, recorded on April 30, 2019, Document No. 201904301544, with the Sacramento County Recorder, against the real property commonly known as 10171 McCarron Way, Sacramento, California, is avoided in its entirety pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions of 11 U.S.C. § 349 if this bankruptcy case is dismissed.

6. [20-22719](#)-C-13 LUCY PATTEN
[RAS](#)-1 Allan Frumkin

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
6-9-22 [[94](#)]

PHH MORTGAGE CORPORATION VS.

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 46 days' notice was provided. Dkt. 101.

The Motion for Relief from the Automatic Stay is granted.

Creditor, PHH Mortgage Corporation as attorney in fact for Bank of New York Mellon Trust Company, N.A. as Trustee for Mortgage Assets Management Series I Trust ("Movant"), filed this Motion seeking relief from the automatic stay as to the debtor's property commonly known as 6308 Creekcrest Circle, Citrus Heights, California (the "Property").

Movant argues cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtor is delinquent in failing to maintain the property taxes. Declaration, Dkt. 96. Movant also argues cause exists pursuant to 11 U.S.C. § 362(d)(2) because the total debt secured by the Property, \$358,190.34, exceeds the value of the Property, which is \$326,000. *Id.*

At the prior hearing, the parties represented they had agreed to a stipulation for adequate protection and a continuance to allow debtor's heirs to refinance the property. The parties agreed that the debtor would have 90 days to secure the refinancing, or otherwise the relief would be granted.

DISCUSSION

Upon review of the record, the court finds cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtor is delinquent in failing to maintain property taxes. The court also finds cause exists pursuant to 11 U.S.C. § 362(d)(2) because the total debt secured by the Property, \$358,190.34, exceeds the value of the Property, which is \$326,000.

Language vacating stay

Based on the foregoing, the Motion is granted. The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

Request for Waiver of Fourteen-Day Stay of Enforcement

Federal Rule of Bankruptcy Procedure 4001(a)(3) stays an order granting a motion for relief from the automatic stay for fourteen days after the order is entered, unless the court orders otherwise. Movant requests that the court grant relief from the Rule as adopted by the United States Supreme Court.

Movant has pleaded adequate facts and presented sufficient evidence to support the court waiving the fourteen-day stay of enforcement required under Federal Rule of Bankruptcy Procedure 4001(a)(3), and this part of the requested relief is granted.

No other or additional relief is granted by the court.

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

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

The Motion for Relief from the Automatic Stay filed by PHH Mortgage Corporation as attorney in fact for Bank of New York Mellon Trust Company, N.A. as Trustee for Mortgage Assets Management Series I Trust ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and trustee under the trust deed, and any other beneficiary or trustee, and their respective agents and successors under any trust deed that is recorded against the real property commonly known as 6308 Creekcrest Circle, Citrus Heights, California, California, ("Property") to secure an obligation to exercise any and all rights arising under the promissory note, trust deed, and applicable nonbankruptcy law to conduct a nonjudicial foreclosure sale and for the purchaser at any such sale to obtain possession of the Property.

IT IS FURTHER ORDERED that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is waived for cause.

No other or additional relief is granted.

7. [22-22519](#)-C-13 JOHN FERRELL
[TLA](#)-1 Thomas Amberg

MOTION TO AVOID LIEN OF
AMERICAN EXPRESS NATIONAL BANK
10-17-22 [[20](#)]

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 22 days' notice was provided. Dkt. 25.

The Motion to Avoid Judicial Lien is Granted.

This Motion requests an order avoiding the two judicial liens of American Express National Bank ("Creditor") against property of the debtor commonly known as 8937 Autumnwood Drive, Sacramento, California ("Property").

A judgment was entered against the debtor in favor of Creditor in the amount of \$6,735.14. Exhibit D, Dkt. 23. An abstract of judgment was recorded with Sacramento County on June 27, 2022, that encumbers the Property. *Id.*

A second judgment was entered against the debtor in favor of Creditor in the amount of \$41,300.74. Exhibit E, Dkt. 23. An abstract of judgment was recorded with Sacramento County on September 7, 2022, that encumbers the Property. *Id.*

Pursuant to Debtor's Schedule A, the subject real property has an approximate value of \$524,000.00 as of the petition date. Dkt. 13. The unavoidable and senior liens that total \$359,092.00 as of the commencement of this case are stated on Debtor's Schedule D. Dkt. 13. Debtor has claimed an exemption pursuant to California Code of Civil Procedure § 704.730 in the amount of \$300,000 on Schedule C. Dkt. 13.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of the judicial lien impairs Debtor's exemption of the real property, and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

An order substantially in the following form shall be prepared and issued by the court:

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

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

IT IS ORDERED that the motion is granted, and the

judgment liens of American Express National Bank, California Superior Court for Sacramento County Case No. 34-2020-00286784, recorded on June 27, 2022, Document No. 202206270436 and Case No. 34-2020-00313428, recorded on September 7, 2022, Document No. 202209070527 with the Sacramento County Recorder, against the real property commonly known as 8937 Autumnwood Drive, Sacramento, California, are avoided in their entirety pursuant to 11 U.S.C. § 522(f)(1), subject to the provisions of 11 U.S.C. § 349 if this bankruptcy case is dismissed.

8. [22-20928](#)-C-13 HENRY REED
[DPC](#)-81922 Colby LaVelle

CONTINUED OBJECTION TO CLAIM OF
ANGEL CLEVELAND, CLAIM NUMBER 5
9-2-22 [[49](#)]

No Tentative Ruling:

The Objection has been set on Local Rule 3007-1(b)(2) procedure which requires 30 days' notice. The Proof of Service shows that 32 days' notice was provided. Dkt. 52.

The Objection to Proof of Claim is xxxxxxxxxx

Debtor, Henry Reed, requests that the court disallow the claim of Angel Cleveland ("Creditor"), Proof of Claim No. 5 ("Claim"). The Claim is asserted to be secured in the amount of \$4,800. Debtor asserts that creditor does not hold a secured interest in debtor's vehicle because the vehicle is titled in the vehicle finance company and the debtor's name only. Debtor further contends that the creditor filed no proof of a secured interest with the proof of claim.

Section 502(a) provides that a claim supported by a Proof of Claim is allowed unless a party in interest objects. Once an objection has been filed, the court may determine the amount of the claim after a noticed hearing. 11 U.S.C. § 502(b). It is settled law in the Ninth Circuit that the party objecting to a proof of claim has the burden of presenting substantial factual basis to overcome the prima facie validity of a proof of claim and the evidence must be of probative force equal to that of the creditor's proof of claim. *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991); see also *United Student Funds, Inc. v. Wylie (In re Wylie)*, 349 B.R. 204, 210 (B.A.P. 9th Cir. 2006). The burden then shifts back to the claimant to produce evidence meeting the objection and establishing its claim. *Wylie*, 349 B.R. at 210.

The debtor declares that the claim is not secured and asserts that the creditor did not provide any documentation showing a secured interest. Debtor further declares that the vehicle's title is in the his name and the name of the vehicle finance company only. The proof of claim does not provide a Basis for Perfection as required in the proof of claim form. Nor has the creditor opposed the objection.

At the prior hearing, the court was prepared to sustain the objection, however; creditor did appear and responded to the debtor's objection. The parties agreed to set a briefing schedule. The court set the deadline for opposition pleading by October 21, 2022 and reply by October 28, 2022.

At the hearing xxxxxx

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 Claim filed in this case by the Debtor, Henry Reed, 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 to Proof of Claim Number 5 of Angel Cleveland is **xxxxxxx**

9. [22-21135](#)-C-13 ROBERT KOEHLER
[DNL](#)-3 Eric Schwab

CONTINUED MOTION TO CONVERT
CASE FROM CHAPTER 13 TO CHAPTER
7
7-28-22 [[34](#)]

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. 38.

The Motion to Convert Case to Chapter 7 is ~~xxxxxx~~

This Motion to Convert the Chapter 13 bankruptcy case of Robert Francis Koehler ("Debtor") has been filed by Drew and Elizabeth Prinz ("Movant"), a creditor. Movant asserts that the case should be dismissed or converted based on the following grounds:

- A. Debtor filed the current bankruptcy case in an inequitable manner and unfairly manipulated the Bankruptcy Code because he dismissed his first bankruptcy case after substantial time and expense was devoted to an Adversary Proceeding and contested matters to decide an exception to discharge, conversion of case to Chapter 7 and objections to claims of exemption.
- B. The debtor filed in bad faith because his second case was filed 23 days after the first bankruptcy case was voluntarily dismissed.
- C. The debtor's intent was to only defeat the state court litigation because both the first and second bankruptcy cases were filed within hours of adverse rulings by the state court.
- D. The debtor's behavior is egregious because he is using the bankruptcy system to avoid paying a judgment to an elderly client.

Movant also contends that conversion, rather than dismissal, is in the best interest of creditors because dismissal will require the movant to seek satisfaction of their claims through alternative means, whereas Chapter 7 will provide payment to the Movant as quickly as reasonably possible. Movant further argue that liquidation is the better alternative because the Debtor has a significant amount of non-exempt assets available to pay movant.

DEBTOR'S OPPOSITION

Debtor filed an Opposition on August 11, 2022. Dkt. 41. Debtor states that movants and debtor agreed to stay the associated adversary

proceeding until the cross appeals in state court have been resolved and there is no prejudice to creditors - who are the only creditors in the case - because there is sufficient equity beyond the debtor's claimed homestead exemption to pay creditors' judgement in full with interest and attorney fees. The debtor further contends that conversion could cause irreparable harm to debtor if liquidation occurs before the appeals are resolved in state court.

PRIOR HEARING

At the prior hearing on September 12, 2022, the motion was continued to allow the debtor time to confirm a plan that is feasible and would satisfy all of the Court's concerns whether cause exists to either convert to Chapter 7 or dismiss the case.

APPLICABLE LAW

Questions of conversion or dismissal must be dealt with a thorough, two-step analysis: "[f]irst, it must be determined that there is 'cause' to act[;] [s]econd, once a determination of 'cause' has been made, a choice must be made between conversion and dismissal based on the 'best interests of the creditors and the estate.'" Nelson v. Meyer (In re Nelson), 343 B.R. 671, 675 (B.A.P. 9th Cir. 2006) (citing Ho v. Dowell (In re Ho), 274 B.R. 867, 877 (B.A.P. 9th Cir. 2002)).

The Bankruptcy Code Provides:

[O]n request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause

11 U.S.C. § 1307(c). The court engages in a "totality of circumstances" test, weighing facts on a case-by-case basis and determining whether cause exists, and if so, whether conversion or dismissal is proper. Drummond v. Welsh (In re Welsh), 711 F.3d 1120, 1123 (9th Cir. 2013) (citing Leavitt v. Soto (In re Leavitt), 171 F.3d 1219 (9th Cir. 1999)). Bad faith is one of the enumerated "for cause" grounds under 11 U.S.C. § 1307. Nady v. DeFrantz (In re DeFrantz), 454 B.R. 108, 112 n.4 (B.A.P. 9th Cir. 2011) (citing In re Leavitt, 171 F.3d at 1224).

DISCUSSION

At the hearing **xxxxxxx**

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 Convert the Chapter 13 case filed by Drew and Elizabeth Prinz ("creditor") 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 to Convert is ~~xxxxxxx~~