

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

Honorable Christopher D. Jaime
1200 I Street, Suite 200
Modesto, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: November 23, 2021

CALENDAR: 1:00 P.M. CHAPTER 13

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

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

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

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

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

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Modesto, California

November 23, 2021 at 1:00 p.m.

1.	<u>21-90408</u> -B-13	SILVIA HERNANDEZ	OBJECTION TO DEBTOR'S CLAIM OF
	<u>RDG-2</u>	Chinonye Ugorji	EXEMPTIONS
			10-14-21 [<u>21</u>]

Final Ruling

The objection has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) and Federal Rule of Bankruptcy Procedure 4003(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to sustain the objection and the exemption is disallowed in its entirety.

The Trustee objects to the Debtor's use of California Code of Civil Procedure §703.140(b)(4) to exempt jewelry totaling \$2,500.00. The allowable claim under this exemption is \$1,750.00. Debtor did not file a response nor amend her schedules.

The Trustee's objection is sustained and the exemption is disallowed.

The objection is ORDERED SUSTAINED and the claimed exemption DISALLOWED for reasons stated in the minutes.

The court will issue an order.

November 23, 2021 at 1:00 p.m.

2. 21-90418-B-13 MIGUEL TERRIQUEZ
EAT-1 Richard L. Jare
Thru #6

OBJECTION TO CONFIRMATION OF
PLAN BY MIDFIRST BANK
11-3-21 [42]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to sustain the objection for reasons stated below and as supplemented at Item #3, RDG-1, and deny confirmation of the plan.

Objecting creditor Midfirst Bank ("Midfirst") holds a first deed of trust secured by real property 5912 Squire Wells Way, Riverbank, California ("Property"). The creditor has timely filed Claim No. 9-1. Midfirst objects to confirmation of the plan on grounds including, but not limited to, Debtor's treatment of creditor in Class 4 since there exists a pre-petition default.

The United States Bankruptcy Court for the Eastern District of California has adopted a claim classification structure in Chapter 13 cases. General Order 18-03 adopts Form EDC 3-080, a standard form Chapter 13 plan, and Local Rule 3015-1(a) makes use of the Form EDC 3-080 standard form Chapter 13 plan mandatory in Chapter 13 cases.¹

The mandatory form Chapter 13 plan classifies long-term secured debts on which the last payment is due after the plan term and which are in default when the petition is filed as Class 1 claims. Class 1 claims are paid by the Trustee. EDC 3-080, § 3.07 & § 3.07(b).

Midfirst's proof of claim reflects a prepetition default which means its claim must be placed in Class 1 of the mandatory form plan. Debtor seeks to alter that classification structure and put Midfirst's claim in Class 4. Class 4 claims are paid by the Debtor or a third-person; however, such classification is available only if there is no prepetition default. EDC 3-080, § 3.10.

The court recognizes that the Bankruptcy Code does not prohibit direct payments under a Chapter 13 plan. See *Cohen v. Lopez (In re Lopez)*, 372 B.R. 40 (9th Cir. BAP 2007), adopted and affirmed, 550 F.3d 1202 (9th Cir. 2008). However, the right to make direct payments is not absolute and the bankruptcy court may, in its discretion, condition the circumstances under which direct payments may be made by local rule or general order. *Id.* at 46-47, 53; *Geisbrecht v. Fitzgerald (In re Geisbrecht)*, 429 B.R. 682, 685 & 690-91 (9th Cir. BAP 2010). The Eastern District of California Bankruptcy Court has done precisely that through both a local rule and general order which establish the above-referenced Class 1 and Class 4 classification structure.

It may be possible, in an appropriate case and under appropriate circumstances, to confirm a Chapter 13 plan that provides for direct payments on a debt in default when the petition was filed. Indeed, Local Bankruptcy Rule 1001-1(f) states as follows:

¹Local Bankruptcy Rule 3015-1(a) states as follows:

(a) Mandatory Form Plan. All chapter 13 debtors, as well as the trustee and holders of unsecured claims, when proposing a plan pursuant to 11 U.S.C. §§ 1321, 1323, and 1329(a), shall utilize Form EDC 3-080, the standard form Chapter 13 Plan.

Modification of Requirements. The Court may sua sponte or on motion of a party in interest for cause, modify the provisions of these Rules in a manner not inconsistent with the Federal Rules of Bankruptcy Procedure to accommodate the needs of a particular case or proceeding.

However, this is not an appropriate case to depart from the otherwise applicable Class 1 and Class 4 classification structure. In fact, the Debtor provides no reason that would justify a departure from the classification structure. And if it is the Debtor's intent to not pay Creditor's claim, perhaps classification as a Class 3 claim is more appropriate.

In any case, for the foregoing reasons, Midfirst's objection is well-taken and will be sustained. The plan will not be confirmed.

The plan filed September 2, 2021, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained as to the plan being not confirmable. No other or additional relief is granted by the court.

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

The court will issue an order.

3.	<u>21-90418-B-13</u> MIGUEL TERRIQUEZ <u>RDG-1</u> Richard L. Jare	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 10-29-21 [38]
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Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to sustain the objection and deny confirmation of the plan.

First, Debtor appeared at the continued meeting of creditors held November 3, 2021, and the meeting of creditors was concluded as to Debtor.

Second, Debtor cannot afford to make the payments or comply with the plan pursuant to 11 U.S.C. § 1325(a)(6). Debtor's Plan relies on a motion to value collateral being filed for Roadrunner. To date, Debtor has failed to file a motion to value collateral. If the motion to value is not filed and granted, Debtor's plan does not have sufficient monies to pay the claim in full.

Third, Debtor's plan is not feasible. The Internal Revenue Service filed a proof of claim and an amended proof of claim listing a secured amount of \$21,747.33. Debtor's plan does not provide for this secured claim.

Fourth, Debtor's Schedule J includes a \$300.00 child support obligation. On October 22, 2021, debtor submitted a Domestic Support Obligation Checklist, but the checklist submitted fails to indicate the appropriate address for the applicable State agency where the claim holder resides. The Domestic Support Obligation Checklist also

references a monthly payment amount of \$594.00, which is significantly higher than the figure on Debtor's Schedule J. It cannot be determined whether the plan is feasible pursuant to 11 U.S.C. § 1325(a) (6).

Fifth, until the Debtor's homestead exemption is determined at Item #6, SSA-2, it is not known whether there are non-exempt assets available for distribution to unsecured creditors in a chapter 7 proceeding, exceeding the 2% distribution to general unsecured creditors provide for in the plan.

The plan filed September 2, 2021, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

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

The court will issue an order.

4.	<u>21-90418-B-13</u> MIGUEL TERRIQUEZ <u>RMP-1</u> Richard L. Jare	OBJECTION TO CONFIRMATION OF PLAN BY REAL TIME RESOLUTIONS, INC. 10-7-21 [<u>16</u>]
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Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c) (4) & (d) (1) and 9014-1(f) (2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f) (1) (C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f) (2) (C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to sustain the objection for reasons stated below and as supplemented at Item #3, RDG-1, and deny confirmation of the plan.

Objecting creditor Real Time Resolutions, Inc. ("Real Time") holds a second deed of trust secured by real property 5912 Squire Wells Way, Riverbank, California ("Property"). The creditor has timely filed Claim No. 3-1. Real Time objects to confirmation of the plan on grounds including, but not limited to, Debtor's failure to provide for Real Time's claim in any manner and that the sale of the Property to fund the plan is speculative. The court agrees.

The plan filed September 2, 2021, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained as to the plan being not confirmable. No other or additional relief is granted by the court.

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

The court will issue an order.

5. 21-90418-B-13 MIGUEL TERRIQUEZ OBJECTION TO CONFIRMATION OF
SSA-1 Richard L. Jare PLAN BY GRISELDA SOLORZANO
10-27-21 [22]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to overrule the objection as moot since the grounds for objection have been incorporated and sustained at Items #2 (EAT-1), #3 (RDG-1), and #4 (RMP-1).

The plan filed September 2, 2021, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is overruled as moot. No other or additional relief is granted by the court.

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

The court will issue an order.

6. 21-90418-B-13 MIGUEL TERRIQUEZ OBJECTION TO HOMESTEAD
SSA-2 Richard L. Jare EXEMPTION
10-28-21 [28]

Final Ruling

The objection has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(2) and Federal Rule of Bankruptcy Procedure 4003(b). The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to continue the hearing and issue a briefing schedule.

The objection is filed, set, and served under Local Bankr. R. 9014-1(f)(2). The court has determined that a briefing schedule is appropriate. See Local Bankr. R. 9014-1(f)(2)(C). The following schedule shall apply:

- (1) the Debtor may file and serve a response to the objection by December 7, 2021;
- (2) the Objector may file and serve a reply to the response by December 14, 2021; and
- (3) the hearing on the objection is continued to January 11, 2022, at 1:00 p.m.

The court will issue an order.

7. 21-90422-B-13 JAMES RIDDLE OBJECTION TO CONFIRMATION OF
EMM-1 Jason N. Vogelpohl PLAN BY RUSHMORE LOAN
Thru #9 MANAGEMENT SERVICES, LLC
11-2-21 [24]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Nonetheless, the court determines that the resolution of this matter does not require oral argument. See Local Bankr. R. 9014-1(h).

The court's decision is to overrule the objection.

Subsequent to the filing of the objection, the Debtor filed an amended plan on November 15, 2021. The confirmation hearing for the amended plan is scheduled for January 4, 2022. The earlier plans filed September 8, 2021, and November 4, 2021, are not confirmed.

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

The court will issue an order.

8. 21-90422-B-13 JAMES RIDDLE OBJECTION TO CONFIRMATION OF
JM-1 Jason N. Vogelpohl PLAN BY LENDMARK FINANCIAL
SERVICES, LLC
10-28-21 [13]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Nonetheless, the court determines that the resolution of this matter does not require oral argument. See Local Bankr. R. 9014-1(h).

The court's decision is to overrule the objection.

Subsequent to the filing of the objection, the Debtor filed an amended plan on November 15, 2021. The confirmation hearing for the amended plan is scheduled for January 4, 2022. The earlier plans filed September 8, 2021, and November 4, 2021, are not confirmed.

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

The court will issue an order.

9. 21-90422-B-13 JAMES RIDDLE OBJECTION TO CONFIRMATION OF
RDG-1 Jason N. Vogelpohl PLAN BY RUSSELL D. GREER
10-29-21 [18]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Nonetheless, the court determines that the resolution of this matter does not require oral argument. See Local Bankr. R. 9014-1(h).

The court's decision is to overrule the objection.

Subsequent to the filing of the objection, the Debtor filed an amended plan on November 15, 2021. The confirmation hearing for the amended plan is scheduled for January 4, 2022. The earlier plans filed September 8, 2021, and November 4, 2021, are not confirmed.

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

The court will issue an order.

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to grant the motion to extend automatic stay.

Debtor seeks to have the provisions of the automatic stay provided by 11 U.S.C. § 362(c)(3) extended beyond 30 days in this case. This is the Debtor's second bankruptcy petition pending in the past 12 months. The Debtor's prior bankruptcy case was dismissed on September 31, 2021, for failure to timely file documents (case no. 21-90376, dkt. 27). Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end in their entirety 30 days after filing of the petition. See e.g., *Reswick v. Reswick (In re Reswick)*, 446 B.R. 362 (9th Cir. BAP 2011) (stay terminates in its entirety); accord *Smith v. State of Maine Bureau of Revenue Services (In re Smith)*, 910 F.3d 576 (1st Cir. 2018).

Discussion

Upon motion of a party in interest and after notice and hearing, the court may order the provisions extended beyond 30 days if the filing of the subsequent petition was in good faith. 11 U.S.C. § 362(c)(3)(B). The subsequently filed case is presumed to be filed in bad faith if there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13. *Id.* at § 362(c)(3)(C)(i)(III). The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* at § 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, 209-210 (2008).

The Debtor asserts that the previous case failed after he was granted two extensions to file missing documents because his office manager was out on maternity leave and his bookkeeper fell ill to COVID. Debtor had anticipated that his bookkeeper would recover sufficiently to aid in finalizing documents before the extended deadlines expired, but the bookkeeper was out with COVID longer than expected. Debtor needed the assistance of his bookkeeper since his financial affairs are not simple and include due and projected tax amounts and projected and profit and loss numbers for his business Kevin Jordan Heating & Air Conditioning Services and Kevin Jordan Heating and Air, Inc.

The Debtor has sufficiently rebutted, by clear and convincing evidence, the presumption of bad faith under the facts of this case and the prior case for the court to extend the automatic stay.

The motion is granted and the automatic stay is extended for all purposes and parties, unless terminated by operation of law or further order of this court.

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

The court will issue an order.

11. 21-90424-B-13 VICTORIA DELGADO
RDG-1 Simian S. Hundal

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
10-29-21 [18]

Final Ruling

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

There being no other objection to confirmation, the plan filed September 10, 2021, will be confirmed.

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

IT IS FURTHER ORDERED that the plan is CONFIRMED and 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 Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

12. 21-90434-B-13 EDWARD BRUNNER AND
RDG-1 KATHERINA COGGINS

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
10-29-21 [19]

CONTINUED TO 12/14/2021 AT 1:00 P.M. TO BE HEARD IN CONJUNCTION WITH MOTIONS TO
VALUE COLLATERAL.

Final Ruling

No appearance at the November 23, 2021, hearing is required. The court will issue an
order.

13. 21-90361-B-13 RASVINDER BAHIA
RDG-1 Eric J. Gravel

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D. GREER
10-5-21 [17]

CONTINUED TO 12/07/2021 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF
CREDITORS SET FOR 12/01/2021.

Final Ruling

No appearance at the November 23, 2021, hearing is required. The court will issue an
order.

14. 21-90164-B-13 EVARISTO AVILA
RDG-3 Pro Se

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
10-14-21 [62]

Final Ruling

The objection has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1) and Federal Rule of Bankruptcy Procedure 4003(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to sustain the objection and the exemption is disallowed in its entirety.

The Trustee objects to the Debtor's use of California Code of Civil Procedure §704.020 to exempt clothing, shoes, and furniture at "100% of fair market value, up to any applicable statutory limit." It is not possible to know whether the exemption claimed falls within the dollar limitations specified under the code section without Debtor providing an exact amount of the exemption claimed.

The Trustee's objection is sustained and the exemption is disallowed.

The objection is ORDERED SUSTAINED and the claimed exemption DISALLOWED for reasons stated in the minutes.

The court will issue an order.

Final Ruling

The motion been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

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

The court's decision is to not permit the requested modification and not confirm the modified plan.

First, Debtors' proposed plan provides for Bay Cities Credit Union as a Class 2 claim in the amount of \$30,000.00, at 2.9% interest, to be paid a monthly dividend of \$538.00 beginning October 2021. As of October 2021, the balance owed to Bay Cities Credit Union is \$26,285.79 and there are 51 months remaining in the 60-month plan term. The monthly dividend proposed for the Class 2 claim of Bay Cities Credit Union will take 52 months to pay said claim. A monthly dividend of \$548.44 beginning October 2021 is needed in order to pay this claim in full in 51 months.

Second, Debtors' proposed plan provides for Bay Cities Credit Union as a Class 2 claim in the amount of \$39,000.00, at 2.9% interest, to be paid a monthly dividend of \$699.00 beginning October 2021. As of October 2021, the balance owed to Bay Cities Credit Union is \$37,670.22 and there are 51 months remaining in the 60-month plan term. The monthly dividend proposed for the Class 2 claim of Bay Cities Credit Union will take 58 months to pay said claim. A monthly dividend of \$785.98 beginning October 2021 is needed in order to pay this claim in full in 51 months.

Third, Debtors' proposed plan provides for Americredit Financial Services as a Class 2 claim in the amount of \$18,955.00, at 5% interest, to be paid a monthly dividend of \$357.00 beginning October 2021. As of October 2021, the balance owed to Americredit Financial Services is \$16,662.32 and there are 51 months remaining in the 60-month plan term. The monthly dividend proposed for the Class 2 claim of Americredit Financial Services will take 52 months to pay said claim. A monthly dividend of \$363.33 beginning October 2021 is needed in order to pay this claim in full in 51 months.

Fourth, motion and declaration are silent as to why the debtors are delinquent in the amount of \$5,860.32 under the currently confirmed plan and why these funds were not paid to the trustee. Furthermore, without knowing the reasons for the delinquency, Trustee is unable to discern if what caused the delinquency has been rectified, and if Debtors will be able to make future plan payments.

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

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

The court will issue an order.