

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

December 15, 2020 at 1:30 p.m.

ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)

1.	20-24510 -C-13	ANIKA LONGMIRE	MOTION TO VALUE COLLATERAL OF
	GC-1	Julius Cherry	TRAVIS CREDIT UNION
			10-29-20 [18]

Thru #2

Final Ruling: No appearance at the December 15, 2020 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 48 days' notice was provided. Dckt. 22.

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 Value is granted.
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The debtor filed this Motion seeking to value the portion of Travis Credit Union's ("Creditor") claim secured by the debtor's property commonly known as 2015 Land Rover Evoque (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$17,000.00. Declaration, Dckt. 20.

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred on August, 2017, which is more than 910 days prior to filing of the petition. 11 U.S.C. § 1325(a)(9) (hanging paragraph).

Upon review of the record, the court finds the value of the Property is \$17,000.00. Therefore, Creditor's secured claim is determined to be

\$17,000.00. 11 U.S.C. § 506(a).

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 Value Collateral and Secured Claim filed by the debtor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion pursuant to 11 U.S.C. § 506(a) is granted, and the claim of Travis Credit Union ("Creditor") secured by property commonly known as a 2015 Land Rover Evoque (the "Property") is determined to be a secured claim in the amount of \$17,000.00, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

2. [20-24510](#)-C-13 ANIKA LONGMIRE CONTINUED OBJECTION TO
[RDG](#)-1 Julius Cherry CONFIRMATION OF PLAN BY RUSSELL
D. GREER
11-9-20 [[24](#)]

No Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 22 days' notice was provided. Dkt. 27.

The Objection to Confirmation of Plan is XXXXXX

The Chapter 13 Trustee, Russell Greer ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. Debtor's plan provides for Travis Credit Union as a Class 2 claim and proposes to pay the value of the collateral securing that claim. However, the court has not valued that secured claim yet.

2. Debtor has nonexempt assets available for distribution to Debtor's general unsecured creditors of \$31,145.05. Debtor's plan must pay 42.63% (\$31,145.05 divided by \$73,066.51) to pass the liquidation test.

DISCUSSION

A review of the docket shows that the Motion To Value (Dkt. 18) has been granted.

At the hearing, XXXXXXXXXXXXXXXX

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

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

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, 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 Objection is XXXXXXXXXX

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 36 days' notice was provided. Dckt. 93.

The Motion to Confirm is denied.

The debtor filed this Motion seeking to confirm the Second Modified Chapter 13 Plan (Dckt. 90) filed on November 9, 2020.

The trustee filed an Opposition on November 24, 2020. Dkt. 94. The trustee opposes confirmation on the following basis:

1. The plan mathematically requires a monthly payment of \$5,157.28 after including trustee fees, which is greater than the \$4,730.00 per month beginning December 2020.
2. The trustee is unable to administer Section 7.02 of Debtor's plan as it differs from the Notice of Forbearance Agreement filed by Creditor Carrington Mortgage, which provides for suspension of mortgage payments from April 1, 2020 through December 1, 2020.
3. The trustee is unable to retroactively administer the Notice of Forbearance Agreement filed by Creditor Carrington Mortgage as it was not filed until October 21, 2020 and includes the suspension of payments for the months of April 2020 through December 2020. \$15,788.10 has disbursed for the Class 1 mortgage payment, representing the months of April 2020 through August 2020.
4. Because the Forbearance Agreement with Creditor Carrington Mortgage requires the debtor to amend or modify the plan, the debtor will accrue post-petition arrears of \$15,631.48, which are not provided for in the plan.

DISCUSSION

The trustee has opposed confirmation on various grounds demonstrating that the plan is not feasible. The proposed plan payment is less than mathematically required, and there multiple issues with when the debtor's mortgage forbearance applies and how those payments will later be treated.

The debtor has not demonstrated that the plan is feasible, which is

reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

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

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

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

The Motion to Confirm filed by the debtor, Antoinette Michelle Woods, 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.

Final Ruling: No appearance at the December 15, 2020 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 64 days' notice was provided. Dckt. 26.

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

The Motion to Confirm is granted.

The debtor filed this Motion seeking to confirm the Chapter 13 Plan (Dckt. 25) filed on October 11, 2020.

No opposition to the Motion has been filed.

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

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

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

The Motion to Confirm filed by the debtor, Rebecca Lucia Corona, 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 debtor's Chapter 13 Plan filed on October 11, 2020 (Dckt. 25) meets the requirements of 11 U.S.C. §§ 1322 and 1325(a), and the plan is confirmed. Debtor's counsel shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the trustee will submit the proposed order to the court.

Final Ruling: No appearance at the December 15, 2020 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 41 days' notice was provided. Dckt. 124.

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

The Motion to Confirm is granted.

The 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 Confirm filed by the debtor, Paula Michelle Hutchinson, 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 debtor's Modified Chapter 13 Plan filed on November 4, 2020 (Dckt. 123) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. Debtor's counsel shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the trustee will submit the proposed order to the court.

6. [19-27016](#)-C-13 KATHLEEN MARSLEK
[SDH](#)-7 Scott D. Hughes

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF ICE LEGAL, P.A.
FOR ARIANE ICE, DEBTORS
ATTORNEY(S)
11-13-20 [[70](#)]

Final Ruling: No appearance at the December 15, 2020 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 32 days' notice was provided. Dckt. 73.

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 for Allowance of Professional Fees is granted.

The debtor filed this Motion seeking first and final approval of compensation for special counsel Ice Legal, P.A. ("Applicant"), who was employed by the debtor on a contingent fee basis to prosecute the debtor's potential federal class action for fraud-based torts and RICO claims against Strategic Financial Solutions, Summit Law Firm and other co-conspirators under federal or state claims across multiple states.

The agreement provided for 50% of the gross settlement, which is \$35,958.07, the amount of fees the Applicant requests be approved. Applicant also seeks reimbursement of expenses in the amount of \$633.85.

The order authorizing Applicant's employment was entered September 3, 2020. Dkt. 50.

APPLICABLE LAW

Statutory Basis For Professional Fees

Pursuant to 11 U.S.C. § 330(a)(3),

In determining the amount of reasonable compensation to be awarded to an examiner, trustee under chapter 11, or professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including-

- (A) the time spent on such services;
- (B) the rates charged for such services;
- (C) whether the services were necessary to the

administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;

(D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;

(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and

(F) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

Further, the court shall not allow compensation for,

- (i) unnecessary duplication of services; or
- (ii) services that were not—
 - (I) reasonably likely to benefit the debtor's estate;
 - (II) necessary to the administration of the case.

11 U.S.C. § 330(a)(4)(A). An attorney must “demonstrate only that the services were reasonably likely to benefit the estate at the time rendered,” not that the services resulted in actual, compensable, material benefits to the estate. *Ferrette & Slatter v. United States Tr. (In re Garcia)*, 335 B.R. 717, 724 (B.A.P. 9th Cir. 2005) (citing *Roberts, Sheridan & Kotel, P.C. v. Bergen Brunswig Drug Co. (In re Mednet)*, 251 B.R. 103, 108 (B.A.P. 9th Cir. 2000)). The court may award interim fees for professionals pursuant to 11 U.S.C. § 331, which award is subject to final review and allowance pursuant to 11 U.S.C. § 330.

Reasonable Fees

A bankruptcy court determines whether requested fees are reasonable by examining the circumstances of the attorney's services, the manner in which services were performed, and the results of the services, by asking:

- A. Were the services authorized?
- B. Were the services necessary or beneficial to the administration of the estate at the time they were rendered?
- C. Are the services documented adequately?
- D. Are the required fees reasonable given the factors in 11 U.S.C. § 330(a)(3)?
- E. Did the attorney exercise reasonable billing judgment?

In re Garcia, 335 B.R. at 724 (citing *In re Mednet*, 251 B.R. at 108; *Leichty v. Neary (In re Strand)*, 375 F.3d 854, 860 (9th Cir. 2004)).

Reasonable Billing Judgment

Even if the court finds that the services billed by an attorney are "actual," meaning that the fee application reflects time entries properly charged for services, the attorney must still demonstrate that the work performed was necessary and reasonable. *Unsecured Creditors' Comm. v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 958 (9th Cir. 1991). An attorney must exercise good billing judgment with regard to the services provided because the court's authorization to employ an attorney to work in a bankruptcy case does not give that attorney "free reign to run up a [fees and expenses] tab without considering the maximum probable recovery," as opposed to a possible recovery. *Id.*; see also *Brosio v. Deutsche Bank Nat'l Tr. Co. (In re Brosio)*, 505 B.R. 903, 913 n.7 (B.A.P. 9th Cir. 2014) ("Billing judgment is mandatory."). According to the Court of Appeals for the Ninth Circuit, prior to working on a legal matter, the attorney is obligated to consider:

- (a) Is the burden of the probable cost of legal services disproportionately large in relation to the size of the estate and maximum probable recovery?
- (b) To what extent will the estate suffer if the services are not rendered?
- (c) To what extent may the estate benefit if the services are rendered and what is the likelihood of the disputed issues being resolved successfully?

In re Puget Sound Plywood, 924 F.2d at 958-59 (citing *In re Wildman*, 72 B.R. 700, 707 (N.D. Ill. 1987)).

Lodestar Analysis

If Applicant believes that there has been substantial and unanticipated legal services that have been provided, then such additional fees may be requested as provided in Local Bankruptcy Rule 2016-1(c)(3). The attorney may file a fee application, and the court will consider the fees to be awarded pursuant to 11 U.S.C. §§ 329, 330, and 331. For bankruptcy cases in the Ninth Circuit, "the primary method" to determine whether a fee is reasonable is by using the lodestar analysis. *Marguiles Law Firm, APLC v. Placide (In re Placide)*, 459 B.R. 64, 73 (B.A.P. 9th Cir. 2011) (citing *Yermakov v. Fitzsimmons (In re Yermakov)*, 718 F.2d 1465, 1471 (9th Cir. 1983)). The lodestar analysis involves "multiplying the number of hours reasonably expended by a reasonable hourly rate." *Id.* (citing *In re Yermakov*, 718 F.2d at 1471). "This calculation provides an objective basis on which to make an initial estimate of the value of a lawyer's services." *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). A compensation award based on the lodestar is a presumptively reasonable fee. *In re Manoa Fin. Co.*, 853 F.2d 687, 691 (9th Cir. 1988).

In rare or exceptional instances, if the court determines that the lodestar figure is unreasonably low or high, it may adjust the figure upward

or downward based on certain factors. *Miller v. Los Angeles Cty. Bd. of Educ.*, 827 F.2d 617, 620 n.4 (9th Cir. 1987). Therefore, the court has considerable discretion in determining the reasonableness of a professional's fees. *Gates v. Duekmejian*, 987 F.2d 1392, 1398 (9th Cir. 1992). It is appropriate for the court to have this discretion "in view of the [court's] superior understanding of the litigation and the desirability of avoiding frequent appellate review of what essentially are factual matters." *Hensley*, 461 U.S. at 437. Both the Ninth Circuit and the Bankruptcy Appellate Panel have stated that departure from the lodestar analysis can be appropriate. See *In re Placide*, 459 B.R. at 73 (citing *Unsecured Creditors' Comm. v. Puget Sound Plywood, Inc. (In re Puget Sound Plywood)*, 924 F.2d 955, 960, 961 (9th Cir. 1991) (holding that the lodestar analysis is not mandated in all cases, thus allowing a court to employ alternative approaches when appropriate); *Digesti & Peck v. Kitchen Factors, Inc. (In re Kitchen Factors, Inc.)*, 143 B.R. 560, 562 (B.A.P. 9th Cir. 1992) (stating that lodestar analysis is the primary method, but it is not the exclusive method)).

FEES AND COSTS & EXPENSES ALLOWED

The court finds that the fees computed on a percentage basis recovery for the debtor are reasonable and a fair method of computing the fees of Applicant in this case. Such percentage fees are commonly charged for such services provided in non-bankruptcy transactions of this type. First and Final Fees in the amount of \$35,958.07 are approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 13 Trustee from the available funds of the Estate in a manner consistent with the order of distribution in a Chapter 13 case.

First and Final Costs in the amount of \$633.85 are also approved pursuant to 11 U.S.C. § 330 and authorized to be paid by the Chapter 13 Trustee.

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

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

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

IT IS ORDERED that Ice Legal, P.A. is allowed the following fees and expenses as a professional of the Estate:

Ice Legal, P.A., Professional Employed by Kathleen Marslek:

Fees in the amount of \$35,958.07
Expenses in the amount of \$633.85,

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

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

7. [20-24317](#)-C-13 STACIE PRADIE
[GEL](#)-1 Gabriel Liberman

CONTINUED MOTION TO VALUE
COLLATERAL OF REAL TIME
RESOLUTIONS, INC.
9-22-20 [[10](#)]

Final Ruling: No appearance at the December 15, 2020 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. Dckt. 13.

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

The Motion to Value is continued to February 9, 2021 at 1:30 p.m.

The debtor filed this Motion seeking to value the portion of Real Time Resolutions, Inc.'s ("Creditor") claim secured by the debtor's property commonly known as 1460 Shirley Drive, Sacramento, California (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$483,755.33. Declaration, Dckt. 12.

The Creditor filed an Opposition on October 6, 2020, arguing there is equity to support its lien, and requesting a continuance to allow an appraisal. Dkt. 20. The parties filed a Stipulation on October 7, 2020, to continue the hearing to November 17, 2020. Dkt. 24.

DISCUSSION

The parties filed a stipulation to continue the hearing on December 4, 2020. Dkt. 34.

The court shall continue the hearing to February 9, 2021 at 1:30p.m.

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 Value Collateral and Secured Claim filed by the debtor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion to Value is continued to February 9, 2021 at 1:30 p.m.

Final Ruling: No appearance at the December 15, 2020 hearing is required.

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 22 days' notice was provided. Dkt. 31.

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

**The Objection to Confirmation of Plan is continued to
February 9, 2021 at 1:30 p.m.**

The Chapter 13 Trustee, Russell Greer ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The debtor has not provided a copy of her 2019 Federal and State tax returns.
2. The trustee has requested, and debtor has yet to provide, evidence substantiating her valuation of her residence and the total mortgage claim as of the filing date.
3. The debtor reports having an interest in real property located at 1460 Shirley Drive, Sacramento, California. The trustee has requested, and debtor has yet to provide, evidence substantiating her valuation of the property, debtor's interest in the property, and the total mortgage claim as of the filing date.
4. Debtor has admitted that she is owed back family support in a significant amount, which was not listed in her schedules. Debtor's plan is not proposed in good faith.

DISCUSSION

The present Objection relies on the debtor's Motion To Value (Dkt. 10), which was continued to February 9, 2021 at 1:30 p.m. by stipulation of the parties.

The court shall continue the hearing on this Objection as well.

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

Findings of Fact and Conclusions of Law are stated in the

Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, 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 Objection is continued to February 9, 2021 at 1:30 p.m.

No Tentative Ruling:

As discussed below, the Motion has not been filed with sufficient notice.

The Motion to Confirm is XXXXX

The debtor filed this Motion To Confirm the Second Amended Plan on November 12, 2020. Dkt. 48. The Motion was served the same day, providing 33 days' notice. Dkt. 51.

Local Bankruptcy Rule 3015-1(d)(1) provides that "In order to comply with both Fed. R. Bankr. P. 2002(b) and LBR 9014-1(f)(1), parties in interest shall be served at least thirty-five (35) days prior to the hearing."

Here, the 33 days' notice provided was insufficient.

At the hearing, xxxxxxxxxxxxxxxx

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

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

The Motion to Confirm filed by the debtor, Lucy Ann Patten, 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 xxxxxxxx

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 14 days' notice was provided. Dckt. 22.

The Motion to Value is granted.

The debtor filed this Motion seeking to value the portion of Regional Acceptance Corporation's ("Creditor") claim secured by the debtor's property commonly known as a 2012 Ford Fusion (the "Property").

The debtor has presented evidence that the replacement value of the Property at the time of filing was \$3,625.00. Declaration, Dckt. 21.

DISCUSSION

The lien on the Vehicle's title secures a purchase-money loan incurred on April 29, 2015, which is more than 910 days prior to filing of the petition. 11 U.S.C. § 1325(a)(9) (hanging paragraph).

Upon review of the record, the court finds the value of the Property is \$3,625.00. Therefore, Creditor's secured claim is determined to be \$3,625.00. 11 U.S.C. § 506(a).

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 Value Collateral and Secured Claim filed by the debtor having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion pursuant to 11 U.S.C. § 506(a) is granted, and the claim of Regional Acceptance Corporation ("Creditor") secured by property commonly known as a 2012 Ford Fusion (the "Property") is determined to be a secured claim in the amount of \$3,625.00, and the balance of the claim is a general unsecured claim to be paid through the confirmed bankruptcy plan.

11. [20-24835](#)-C-13 NARINDER SINGH
[JHK](#)-1 Peter Macaluso

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-5-20 [[13](#)]

CAB WEST, LLC VS.

Final Ruling: No appearance at the December 15, 2020 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 40 days' notice was provided. Dckt. 20.

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 for Relief from the Automatic Stay is granted.

Cab West, LLC ("Movant") filed this Motion seeking relief from the automatic stay as to the debtor's 2019 Ford Fusion (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 postpetition payments on the lease agreement, and because the plan provides for the surrender of the Property.

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 postpetition payments, and because the proposed plan provides for the surrender of the Property. The court also finds cause exists pursuant to 11 U.S.C. § 362(d)(2) because the Property is only being lease, meaning the debtor has no equity in the Property.

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 Cab West, LLC ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Property, under its security agreement, loan documents granting it a lien in the asset identified as a 2019 Ford Fusion ("Property"), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Property to the obligation secured thereby.

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.

12. [20-24835](#)-C-13 NARINDER SINGH
[JHK](#)-2 Peter Macaluso

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-5-20 [[21](#)]

CAB WEST, LLC VS.

Final Ruling: No appearance at the December 15, 2020 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 40 days' notice was provided. Dckt. 20.

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 for Relief from the Automatic Stay is granted.

Cab West, LLC ("Movant") filed this Motion seeking relief from the automatic stay as to the debtor's 2019 Ford Escape (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 postpetition payments on the lease agreement, and because the plan provides for the surrender of the Property.

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 postpetition payments, and because the proposed plan provides for the surrender of the Property. The court also finds cause exists pursuant to 11 U.S.C. § 362(d)(2) because the Property is only being lease, meaning the debtor has no equity in the Property.

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 Cab West, LLC ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED the automatic stay provisions of 11 U.S.C. § 362(a) are vacated to allow Movant, its agents, representatives, and successors, and all other creditors having lien rights against the Property, under its security agreement, loan documents granting it a lien in the asset identified as a 2019 Ford Escape ("Property"), and applicable nonbankruptcy law to obtain possession of, nonjudicially sell, and apply proceeds from the sale of the Property to the obligation secured thereby.

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.

13. [20-23836](#)-C-13 CHARLES/KATHY JONES
[RLM](#)-1 Candace Brooks

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-16-20 [[16](#)]

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY VS.

Final Ruling: No appearance at the December 15, 2020 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 29 days' notice was provided. Dckt. 21.

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 for Relief from the Automatic Stay is granted.

State Farm Mutual Automobile Insurance Company ("Movant") filed this Motion seeking relief from the automatic stay to allow state court litigation in the superior court for Sacramento County entitled *State Farm Mutual Automobile Insurance Company v. Kathy Jo Dewey-Jones*, Case No. 34-2020-00283742-CL-IC-GDS (the "Litigation") to be concluded.

Movant argues that the estate will not be prejudiced by the litigation, and provides testimony that Movant is only seeking to collect from the debtor's insurance coverage if successful in the Litigation. Declaration, Dckt. 19.

DISCUSSION

The court may grant relief from stay for cause when it is necessary to allow litigation in a nonbankruptcy court. 3 COLLIER ON BANKRUPTCY ¶ 362.07[3][a] (Alan N. Resnick & Henry J. Sommer eds. 16th ed.). The moving party bears the burden of establishing a prima facie case that relief from the automatic stay is warranted, however. *LaPierre v. Advanced Med. Spa Inc. (In re Advanced Med. Spa Inc.)*, No. EC-16-1087, 2016 Bankr. LEXIS 2205, at *8-9 (B.A.P. 9th Cir. May 23, 2016). To determine "whether cause exists to allow litigation to proceed in another forum, 'the bankruptcy court must balance the potential hardship that will be incurred by the party seeking relief if the stay is not lifted against the potential prejudice to the debtor and the bankruptcy estate.'" *Id.* at *9 (quoting *Green v. Brotman Med. Ctr., Inc. (In re Brotman Med. Ctr., Inc.)*, No. CC-08-1056-DKMo, 2008 Bankr. LEXIS 4692, at *6 (B.A.P. 9th Cir. Aug. 15, 2008)) (citing *In re Aleris Int'l, Inc.*, 456 B.R. 35, 47 (Bankr. D. Del. 2011)). The basis for such relief under 11 U.S.C. § 362(d)(1) when there is pending litigation in another forum is predicated on factors of judicial economy, including

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whether the suit involves multiple parties or is ready for trial. See *Christensen v. Tucson Estates, Inc. (In re Tucson Estates, Inc.)*, 912 F.2d 1162 (9th Cir. 1990); *Packerland Packing Co. v. Griffith Brokerage Co. (In re Kemble)*, 776 F.2d 802 (9th Cir. 1985); *Santa Clara Cty. Fair Ass'n v. Sanders (In re Santa Clara Cty. Fair Ass'n)*, 180 B.R. 564 (B.A.P. 9th Cir. 1995); *Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551 (Bankr. C.D. Cal. 2004).

The court finds that the nature of the Litigation warrants relief from stay for cause.

The court shall issue an order modifying the automatic stay as it applies to Debtor to allow Movant to continue the Litigation. The automatic stay is not modified with respect to enforcement of the judgment against the debtors, the Chapter 13 Trustee, or property of the bankruptcy estate. Any judgment obtained shall be submitted to this court for the proper treatment of any claims arising under the Bankruptcy Code.

No other or additional relief is granted by the court.

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

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

The Motion for Relief from the Automatic Stay filed by State Farm Mutual Automobile Insurance Company ("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 modified as applicable to the debtors 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 to proceed with litigation in *State Farm Mutual Automobile Insurance Company v. Kathy Jo Dewey-Jones*, Case No. 34-2020-00283742-CL-IC-GDS .

IT IS FURTHER ORDERED that the automatic stay is not modified with respect to enforcement of any judgment the debtors, the Chapter 13 Trustee, or property of the bankruptcy estate. Any judgment obtained by Movant shall be submitted to this court for the proper treatment of any claims arising under the Bankruptcy Code.

No other or additional relief is granted.

No 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 50 days' notice was provided. Dckt. 86.

The Motion to Modify is XXXXXX

The debtor filed this Motion seeking to confirm the Second Modified Chapter 13 Plan (Dckt. 85) filed on September 28, 2020.

Creditor U.S. BANK, N.A., as trustee, filed an Opposition on October 16, 2020. Dkt. 93. The creditor notes that all plan payments are suspended through July 2020, and that no payments on its secured claim are proposed until August 2021. Creditor objects that the plan does not provide for equal monthly payments as required by 11 U.S.C. § 1325(a)(5); was not filed in good faith as required by 11 U.S.C. § 1325(a)(3); impermissibly modifies its claim in violation of as required by 11 U.S.C. § 1322(b)(2); and has not been demonstrated to be feasible as required by 11 U.S.C. § 1325(a)(6).

The debtor filed a Reply on October 27, 2020. Dkt. 95. The Reply argues that the debtor can fund his plan and increased payments without a refinance; that the debtor is making equal payments, which increase alongside disposable income increases; and that the plan has been filed in good faith.

DISCUSSION

At the prior hearing, the parties agreed to a continuance to allow the debtor to demonstrate whether the plan is feasible.

At the hearing, XXXXXXXXXXXXXXXX

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, Gregoire Tonoukouin, 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 XXXXXXXXXXXX

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. Dckt. 25.

The Motion to Modify is denied.

The debtor filed this Motion seeking to confirm the First Modified Chapter 13 Plan (Dckt. 24) filed on November 6, 2020.

The trustee filed an opposition on December 1, 2020. Dkt. 27. The trustee opposes confirmation on the following grounds:

1. A prior confirmed plan provided for 5.5% interest on the claim of the Internal Revenue Service. That interest rate is now 5% under the proposed modified plan, but it is unclear when that interest rate is set to commence.
2. The plan provides for an 84 month term pursuant to 11 U.S.C. § 1329(d), but the prior plan was confirmed April 15, 2020. That provision was enacted on March 27, 2020, and states it is applicable to "a plan confirmed prior to the date of enactment of this subsection."

DISCUSSION

The trustee's arguments are well-taken. The plan provides for an 84 month term pursuant to 11 U.S.C. § 1329(d). That provision was enacted on March 27, 2020, and states it is applicable to "a plan confirmed prior to the date of enactment of this subsection."

Here, the debtor's first plan was confirmed on April 15, 2020 (Dkt. 14), meaning it cannot be modified pursuant to 11 U.S.C. § 1329(d).

Additionally, the plan by its terms is not feasible where payments on the Internal Revenue Service's claim at a higher interest rate are no longer authorized because the plan only provides for a lower interest rate. That is also reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

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

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

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

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

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

16. [20-22852](#)-C-13 DEREK WOLF
[DVW](#)-1 Pro Se

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION TO
CONFIRM TERMINATION OR ABSENCE
OF STAY
12-1-20 [[115](#)]

U.S. BANK, NATIONAL
ASSOCIATION VS.

Thru #18

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 14 days' notice was provided. Dckt. 120.

The Motion for Relief from the Automatic Stay is granted.

U.S. BANK, NATIONAL ASSOCIATION AS LEGAL TITLE TRUSTEE FOR TRUMAN 2016 SC6 TITLE TRUST ("Movant") filed this Motion seeking relief from the automatic stay as to the debtor's 7995 Alta Vista Lane, Citrus Heights, CA (the "Property").

Movant first argues there is no stay in effect as to the debtor or estate pursuant to 11 U.S.C. § 362(c)(3) because this is debtor's second case filed recently, with the most recent case dismissed the in year preceding filing this case.

Movant also argues cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtor has not paid the October through and including December 2020 post-petition mortgage payments to Movant. Declaration, Dckt. 21. Movant also argues cause exists pursuant to 11 U.S.C. § 362(d)(4) because the debtor has filed multiple bankruptcies as part of a scheme to hinder, delay, and defraud the Movant.

DISCUSSION

Movant first argues that there is no stay in effect pursuant to 11 U.S.C. § 362(c)(3). However, no legal authority is provided for the proposition that the stay was terminated as to the estate—the plain language of the statute shows stay is terminated only as to the debtor. In re Thu Thi Dao, 616 B.R. 103 (Bankr. E.D. Cal. 2020).

While there is a stay in effect, the court finds cause for relief from stay exists pursuant to 11 U.S.C. § 362(d)(1) because the debtor is delinquent postpetition payments.

The court also finds cause exists pursuant to 11 U.S.C. § 362(d)(4) because the debtor has filed multiple bankruptcies as part of a scheme to hinder, delay, and defraud the Movant. Before filing this case, the debtor filed 5 other cases in this district. The two cases, Nos. 11-22709 and 19-27237, filed under Chapter 7 received a discharge. Notwithstanding having the relief of a Chapter 7 discharge, the debtor filed new cases under Chapter 13 shortly thereafter in both instances. Each of the debtor's prior

3 Chapter 13 cases have been dismissed, and at least in part for failure to maintain plan payments. While the debtor is now pro se, in prior cases he had counsel, and is knowledgeable on the requirements of a debtor under the Bankruptcy Code.

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 because the case was filed in bad faith for the sole intent to cause delay.

The court finds Movant has not 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 not 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 U.S. BANK, NATIONAL ASSOCIATION AS LEGAL TITLE TRUSTEE FOR TRUMAN 2016 SC6 TITLE 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 7995 Alta Vista Lane, Citrus Heights, 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 above relief is also granted pursuant to 11 U.S.C. § 362(d)(4), the court having found that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors that involved multiple bankruptcy filings affecting the Property. If

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recorded in compliance with applicable State laws governing notices of interests or liens in real property, this order shall be binding in any other case under this title purporting to affect the Property filed not later than 2 years after the date of the entry of this Order.

IT IS FURTHER ORDERED that the fourteen-day stay of enforcement provided in Federal Rule of Bankruptcy Procedure 4001(a)(3) is not waived for cause.

No other or additional relief is granted.

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 34 days' notice was provided. Dckt. 91.

The Motion to Confirm is XXXXXX

The debtor filed this Motion seeking to confirm an Amended Chapter 13 Plan (Dckt. 90) filed on October 14, 2020.

The trustee filed an Opposition, and Supplemental Opposition (Dkts. 99, 103), opposing confirmation on the following grounds:

1. Debtor testified at his 341 meeting of creditors that he has not filed his 2019 Federal and State income tax returns.
2. The Trustee has filed an objection to the debtor's exemption of \$175,000.00 in his residence. Without the tax returns, the Trustee cannot complete his analysis regarding the debtor's income and whether the debtor is entitled to an exemption of \$175,000.00 pursuant to C.C.P. §704.730(a)(3)(C).
3. Debtor admitted that he is owed child support arrears in an amount over \$50,000.00. Debtor has failed to include the child support arrears due to him in his schedules.
4. The Non- Standard Provisions of Debtor's plan at 7.2 states that Debtor shall pay off his plan when he receives his Social Security Settlement which he expects to receive by July 2021. Debtor has testified that he applied for Social Security Disability 2 years ago and that the process has been stalled due to the Covid pandemic, and that the July 2021 date was based on information received from a prior attorney in his case.

DISCUSSION

At the prior hearing, the parties agreed to a continuance to allow the debtor to provide evidence showing specifics on a potential Social Security Settlement.

At the hearing, xxxxxxxxxxxxxxxx

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

holding that:

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

The Motion to Confirm filed by the debtor, Derek Leroy Wolf, 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 ~~xxxxxxxxxxxxxx~~

No **Tentative Ruling**:

The Objection has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 36 days' notice was provided. Dckt. 109.

The Objection to Claimed Exemptions is XXXXXX

The Chapter 13 Trustee filed this Objection to the debtor's \$175,000 homestead exemption claimed pursuant to California Civil Code § 704.730 on the basis that the trustee does not know if the debtor qualifies.

That provision allows a homestead exemption of \$175,000 for (A) persons 65 or older; (B) a person physically or mentally disabled who as a result of that disability is unable to engage in substantial gainful employment; and (C) a person 55 years of age or older with a gross annual income of not more than \$25,000 or, if the judgment debtor is married, a gross annual income, including the gross annual income of the judgment debtor's spouse, of not more than \$35,000 and the sale is an involuntary sale.

Here, it is known the debtor is 59 years old. Unknown is whether the debtor qualifies based on some physical or mental disability, or based on income.

The trustee notes in the Objection that he has requested evidence from the debtor, including a 2019 tax return and anything demonstrating disability, but that nothing has been provided to date.

At the hearing, XXXXXXXXXXXXXXXXXX

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

IT IS ORDERED that Objection is XXXXXX

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 48 days' notice was provided. Dckt. 122.

The Motion to Modify is XXXXXXX

The debtor filed this Motion seeking to confirm the Third Modified Chapter 13 Plan (Dckt. 121) filed on October 28, 2020.

The trustee filed an Opposition on November 23, 2020. Dkt. 123. The trustee opposes confirmation on the following grounds:

1. Debtor's plan fails to provide for post-petition arrears totaling \$1,596.62 to Class 1 Creditor, Wells Fargo/Select Portfolio Servicing Inc. representing the month of October 2020.
2. Debtor's plan fails to provide for post-petition arrears totaling \$100.13 to Class 1 Creditor, Wells Fargo Bank NA representing the month of October 2020.
3. Debtor's plan proposes a monthly payment of \$2,650.00 beginning November 2020. Debtor's Schedules I and J do not support an ability to make these payments.

DISCUSSION

On December 1, 2020, the debtor filed (it is unclear if amended or supplemental) Schedules I and J, indicating disposable monthly income of \$2,688.54.

At the hearing, the parties addressed the arrearages not provided for in the plan and whether the plan is feasible XXXXXXXXXXXXXX

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

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

The Motion to Confirm filed by the debtor, Sharon Kay Ogbodo, 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 XXXXXXX

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 47 days' notice was provided. Dckt. 87.

The Motion to Confirm is XXXXXX

The debtor filed this Motion seeking to confirm the Second Amended Chapter 13 Plan (Dckt. 68) filed on October 29, 2020.

OPPOSITION OF WILMINGTON SAVINGS

Creditor Wilmington Savings Fund Society, FSB, as trustee of Stanwich Mortgage Loan Trust A, filed an Opposition on November 30, 2020. Dkt. 94. Creditor Wilmington opposes confirmation on the following grounds:

1. The plan provides for a lump sum payment from the sale of debtor's residence by April 25, 2021. But, the plan does not specify what happens, and whether the stay is lifted, in the event the residence is not sold.
2. The plan is silent as to insurance and taxes pending sale.
3. The debtor and Creditor Wilmington agreed to suspend payments due pending sale so long as its claim is paid at 5% interest. The plan should be amended to specify that interest rate.

OPPOSITION OF US BANK

Creditor U.S. Bank National Association, as indenture trustee, for the holders of the CIM Trust 2017-1, Mortgage-Backed Notes, Series 2017-1, filed an Opposition on December 1, 2020. Dkt. 96. Creditor U.S. Bank National Association opposes confirmation on the following grounds:

1. The plan does not provide for Creditor U.S. Bank National Association's claim because no payment are proposed until the property securing the claim is sold.
2. The plan does not promptly cure arrearages.
3. The plan provides for no payments until a lump sum is made, and therefore does not provide for equal monthly payments.

4. Debtor's Amended Schedule J indicates that the Debtor has a disposable income of \$1,285.00 per month. However, this did not include the ongoing monthly mortgage payment on Creditor's claim of \$1,088.41. When accounting for the claim, the plan is not feasible.

DEBTOR'S RESPONSE

The debtor filed a Response requesting a continuance to allow the parties to resolve grounds for opposition.

DISCUSSION

At the hearing, the parties addressed whether a continuance is necessary **XXXXXXXXXXXXXX**

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

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

The Motion to Confirm filed by the debtor, Shirley Cooper, 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 **XXXXXXXXXXXXXX**

21. [20-24264](#)-C-13 JUAN LOPEZ AND ROSALINA
[PPR](#)-1 MARTINEZ-MACIEL
Peter Macaluso

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY
CHAMPION MORTGAGE COMPANY
(NATIONSTAR MORTGAGE LLC, DBA)
10-9-20 [[24](#)]

Thru #22

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 29 days' notice was provided. Dckt. 29.

The Objection to Confirmation of Plan is ~~XXXXXX~~

Creditor Champion Mortgage Company ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that its claim is missclassified as a Class 2, where it should be Class 1.

DEBTOR'S REPLY

The debtors filed a Reply on November 10, 2020, consenting to reclassifying Creditor's claim to Class 1 via the order confirming the plan. Dckt. 37.

DISCUSSION

The parties are in agreement that the Creditor's claim should be treated as a Class 1.

At the hearing, ~~xxxxxxxxxxxxxxxx~~

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

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

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

IT IS ORDERED that the Objection is ~~xxxxxxxx~~

22. [20-24264](#)-C-13 JUAN LOPEZ AND ROSALINA CONTINUED OBJECTION TO
[RDG](#)-1 MARTINEZ-MACIEL CONFIRMATION OF PLAN BY RUSSELL
Peter Macaluso D. GREER
10-26-20 [[30](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 22 days' notice was provided. Dckt. 33.

The Objection to Confirmation of Plan is XXXXXX

The Chapter 13 Trustee, Russell Greer ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The debtors' non-exempt equity totals \$68,524.63 and non-priority general unsecured claims total \$28,540.08. Accordingly, Debtors' plan must pay 100% to general unsecured creditors, plus interest at the Federal Judgment Rate of .13%

2. Debtors' plan provides for Gregory Funding as a Class 1 creditor with a postpetition mortgage payment of \$1,213.83 per month. Gregory Funding has filed a proof of claim indicating a monthly post-petition mortgage payment of \$1,468.05, meaning the debtors' plan is not feasible.

3. Debtors' plan provides for Sacramento County Tax Collector as a Class 2 claim in the amount of \$28.11 to be paid at 18% interest a monthly dividend of \$15.00. The County of Sacramento has filed a proof of claim listing a secured portion of \$1,823.32, meaning the debtors' plan is not feasible.

DISCUSSION

At the prior hearing, the parties agreed to a continuance to further assess the feasibility of the plan.

At the hearing, XXXXXXXXXXXXXXXXXX

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

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

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, 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 Objection is XXXXXXXXXX