

U.S. BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Honorable J. Barrett Marum

Tuesday, March 11, 2025

Current as of 03/11/2025 at 10:39 AM

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Department 2, Room 118

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08:30 AM #1 24-04276-JBM7 Margo Michelle Butler

**Zoom Hearing**

**Matter:** REAFFIRMATION AGREEMENT BETWEEN DEBTOR AND CARVANA, LLC. FILED BY CARVANA, LLC

**Tentative Ruling:**

**Hear.** The Debtor entered into a reaffirmation agreement with Carvana, LLC ("Carvana") regarding a 2014 Ford C-Max Hatchback 5d Energi 2.0L (the "Vehicle").

The Debtor was not represented by counsel in negotiating the Reaffirmation Agreement, and as such, this Court has a duty to determine whether entering such agreement is "in the best interest of the debtor." 11 U.S.C. § 524(c)(6). Here, it appears to the Court that the Reaffirmation Agreement is not in the best interest of the Debtor because she may retain the Vehicle without entering into this agreement, assuming she keeps current on her payments. *See* Cal. Civ. Code § 2983.3(a)(2). California Civil Code § 2983.3(a)(2) voids any provision in a vehicular loan that purports to classify a debtor's bankruptcy filing as a default in the contract. Therefore, so long as the debtor continues to make their payments, such creditors are prohibited from "accelerating the maturity of any party of all of the amount due under the contract" or "repossessing the motor vehicle." Cal. Civ. Code § 2983.3(a)(2).

Accordingly, if the Debtor continues to make monthly payments of \$330.00 for forty-nine (49) months, then Carvana is not entitled to declare a default and/or to pursue a repossession of the Vehicle. Carvana is expressly authorized to accept any payments voluntarily paid by the Debtor on account of pre-petition debt and to apply the payments to reduce the pre-petition debt.

1. Approval of the Reaffirmation Agreement is **DENIED**;
2. The automatic stay will remain in effect, unless otherwise ordered by the Court or replaced by the discharge injunction of 11 U.S. C. § 524; and
3. Carvana is not entitled to declare a default and/or to pursue repossession of the Vehicle as long as the Debtor remains current on all payments to Carvana (including with respect to payment of expenses associated with placement of insurance or otherwise required under the contract). Carvana is authorized to accept and apply such payments as set forth above.

**Attorneys:**

ProSe / None

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**Zoom Hearing**

**Matter:** REAFFIRMATION AGREEMENT BETWEEN DEBTORS AND DON ROBERTO JEWELERS FILED BY DON ROBERTO JEWELERS

**Tentative Ruling:**

Hear. The Court has reviewed the Debtors' Reaffirmation Agreement (ECF No. 12.) The Court must determine whether the Reaffirmation Agreement: (1) imposes an undue hardship on the Debtors; and (2) is in the Debtors' best interest. 11 U.S.C. § 524(c)(6)(A). Additionally, the Court must provide statutory admonishments to the Debtors at the hearing if the Court approves the Reaffirmation Agreement. 11 U.S.C. § 524(d)(1). The Court will hear this matter so it can understand why the Debtors wish to reaffirm this debt and whether they are able to do so without creating an undue hardship on their financial circumstances.

**Attorneys:**

ProSe / None

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10:00 AM #3 20-00576-JBM13 Daniel Wayne McKee

**Matter:** MOTION TO DISMISS CASE FILED BY TRUSTEE

**Tentative Ruling:**

Hear. Does Debtor have the ability to make a lump sum payment of some amount to catch up or at least partially catch up on the plan payments? The Court is inclined to give the Debtor some time to catch up on plan payments, but likely not more than six months. Guideline fees awarded as requested.

**Attorneys:** Brian Crozier Whitaker  
Brian Crozier Whitaker

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10:00 AM #4 22-00966-JBM13 Leticia Marin Martinez

**Matter:** MOTION TO DISMISS CASE FILED BY TRUSTEE (fr 1/14/25)

**Tentative Ruling:**

OFF CALENDAR. The Trustee withdrew this motion to dismiss via ECF No. 74. The matter is therefore off calendar and appearances are excused; guideline fees awarded as requested.

**Attorneys:** Richard Komisars, III  
Richard Komisars, III

**10:00 AM #5 24-02830-JBM13 Marina Rivera**

**Matter:** HEARING RE: NOTICE OF MODIFIED CHAPTER 13 PLAN (DATED 2/7/25) BEFORE CONFIRMATION FILED ON BEHALF OF MARINA RIVERA

**Tentative Ruling:**

Hear. The Trustee has withdrawn his objection to confirmation (ECF No. 38) and it appears confirmation of the Debtor's First Amended Chapter 13 Plan may proceed unopposed. Since the opposition deadline for parties who received notice of the confirmation hearing through mail is not until March 10, 2025, the Court will keep this matter on calendar. If no objection is timely filed the Court anticipates it will confirm the First Amended Plan at the March 11th hearing.

**Attorneys:** Bruno Flores  
Bruno Flores

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**10:00 AM #6 24-03766-JBM13 David Alexander Espinoza and Erin Colleen Connell-**

**Matter:** HEARING RE: NOTICE OF MODIFIED CHAPTER 13 PLAN (DATED 2/7/25) BEFORE CONFIRMATION FILED ON BEHALF OF DAVID ALEXANDER ESPINOZA, ERIN COLLEEN CONNELL-ESPINOZA

**Tentative Ruling:**

1-3) The Court has reviewed Debtors' March 7, 2025 Case Status Report (ECF No. 72) in which the Debtors report that they are indeed current on their plan payments and that the Trustee's counsel has confirmed as such in a meet and confer conversation with Debtors' counsel. On March 7, 2025 the Debtors also filed an amended plan and noticed it for confirmation on April 8, 2025 at 10:00 a.m. The Court is therefore inclined to continue all of these matters to April 8, 2025 at 10:00 a.m. If the Trustee agrees that the continuance is appropriate, his counsel may contact the Courtroom Deputy to so advise and in that case appearances on March 11, 2025 will be excused. (Mr. Chen's appearance on number 8 remains excused regardless of what happens with numbers 6 and 7 -- the Court includes number 8 in this amended tentative ruling simply to change the date to which it is being continued.)

**Attorneys:** Shawn A. Doan  
Shawn A. Doan

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**10:00 AM #7 24-03766-JBM13 David Alexander Espinoza and Erin Colleen Connell-**

**Matter:** OBJECTION TO CONFIRMATION OF FIRST AMENDED CHAPTER 13 PLAN (DATED 2/7/25) AND MOTION TO DISMISS CASE FILED BY TRUSTEE

**Tentative Ruling:**

Hear. The Debtor and the Trustee both filed status reports on February 27, 2025. The Debtors' status report states that Debtors are current on their plan payments while the Trustee's status report asserts they are delinquent by more than \$11,000 through February. If the Debtors are not substantially current

on their plan payments by the time of the hearing, the Court will be inclined to dismiss the case.

The Debtors' status report also attaches a PCM that the Debtors say they have provided to the Trustee and the Debtors have filed an amended means test. Do the PCM and the amended means test resolve the Trustee's objections? If not, what remains?

**Attorneys:**

Shawn A. Doan

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**10:00 AM #8 24-03766-JBM13 David Alexander Espinoza and Erin Colleen Connell-**

**Matter:** OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN FILED ON BEHALF OF JAMES WOODS, ISABEL LUENGO

**Tentative Ruling:**

3-4) CONTINUED to March 25, 2025 at 10:00 a.m. to be heard with the Debtors' motion to avoid the judgment lien of James Woods and Isabel Luengo. (The Court also anticipates that if the Debtors oppose the stay relief motion filed by Mr. Woods and Ms. Luengo that the Court will hear that motion on March 25, 2025 at 10:00 a.m. as well.) Appearances at the March 11, 2025 hearing on these matters are excused.

The Court notes that the formatting of Mr. Woods' and Ms. Luengo's filings in this case does not comply with the Court's Administrative Procedures. Counsel is directed to review Section 2 of those Administrative Procedures, which are available on the Court's website. The Court expects that future filings will comply with the Court's formatting requirements.

**Attorneys:** Yawen Chen

Shawn A. Doan

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**10:00 AM #9 24-03766-JBM13 David Alexander Espinoza and Erin Colleen Connell-**

**Matter:** MOTION TO DISMISS CASE FILED ON BEHALF OF JAMES WOODS, ISABEL LUENGO

**Tentative Ruling:**

See tentative for number 8.

**Attorneys:** Yawen Chen

Shawn A. Doan

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**10:00 AM #10 24-04210-JBM13 Carlene Woodson**

**Matter:** HEARING RE: NOTICE OF MODIFIED CHAPTER 13 PLAN (DATED 2/7/25) BEFORE CONFIRMATION FILED ON BEHALF OF CARLENE WOODSON

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**Tentative Ruling:**

1-2) Hear. Debtor's February 25, 2025 Response to Trustee's Objection to Confirmation of Chapter 13 Plan and Motion to Dismiss (ECF No. 43) reported that Debtor would file an amended plan to address some of the issues raised in the Trustee's motion. Nothing has been filed, however, and the Trustee makes valid points in his Objection to Confirmation of Chapter 13 Plan and Motion to Dismiss (ECF No. 36). The Court will therefore SUSTAIN the Trustee's objection to confirmation and DISMISS the case.

**Attorneys:** Andrew H. Griffin, III  
Andrew H. Griffin, III

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**10:00 AM #11 24-04210-JBM13 Carlene Woodson**

**Matter:** OBJECTION TO CONFIRMATION OF AMENDED CHAPTER 13 PLAN (DATED 12/27/24) AND MOTION TO DISMISS CASE FILED BY TRUSTEE (fr 2/11/25)

**Tentative Ruling:**

See tentative for #10.

**Attorneys:** Michael Koch  
Andrew H. Griffin, III  
Andrew H. Griffin, III

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**10:00 AM #12 24-04690-JBM13 Melvin Milivoj Marin**

**Matter:** MOTION TO DISMISS WITH PREJUDICE WITH IMPOSITION OF A ONE-YEAR BAR TO RE-FILING PURSUANT TO 11 U.S.C. 109(g) FILED BY TRUSTEE (fr 2/25/25)

**Tentative Ruling:**

The Debtor timely filed an amended plan using an old version of this Court's Mandatory Chapter 13 Plan. Debtor is ordered to file a further amended Chapter 13 Plan using the current version of the Mandatory Chapter 13 Plan, which is easily found on the Court's website in the forms section, by no later than March 14, 2025. If Debtor fails to meet this deadline, the Chapter 13 Trustee may upload an order dismissing the case. The hearing on this motion will be CONTINUED to April 8, 2025 at 10:00 a.m. to be heard in conjunction with the Objection to Confirmation and Motion to Dismiss the Trustee filed on March 3, 2025 (ECF No. 112). Appearances at the March 11, 2025 hearing are excused.

**Attorneys:** Michael Koch  
ProSe / None

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**10:00 AM #13 25-00498-JBM13 Patricia Vera**

**Matter:** MOTION TO EXTEND THE AUTOMATIC STAY FILED ON BEHALF OF PATRICIA VERA

**Tentative Ruling:**

GRANTED. Good cause appearing, the Court grants this unopposed motion to extend the automatic stay. Debtor's counsel may submit an order and appearances at the March 11, 2025 hearing are excused.

**Attorneys:** Allan Otis Cate, Jr  
Allan Otis Cate, Jr

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**10:00 AM #14 25-00528-JBM13 Sergio A. Jazo and Adriana Jazo**

**Matter:** MOTION TO EXTEND THE AUTOMATIC STAY FILED ON BEHALF OF SERGIO A. JAZO, ADRIANA JAZO

**Tentative Ruling:**

Hear. The deadline to oppose this motion does not run until March 10, 2025 for parties who received service through mail. The Court will therefore hear this matter in the normal course on March 11, 2025. If no opposition is timely filed, the Court anticipates it will grant the motion and award guideline fees as requested.

**Attorneys:** Rick Melendez  
Rick Melendez

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**11:00 AM #15 22-01067-JBM13 Enrique A. Mendoza and Tanhya A. Hernandez**

**Matter:** MOTION FOR RELIEF FROM STAY AND CO-DEBTOR STAY, RS # DWE-1 FILED ON BEHALF OF FREEDOM MORTGAGE CORPORATION

**Tentative Ruling:**

Creditor has notified the Court that it submits on the Court's tentative ruling (ECF No. 41), so that will become the order of the Court. Debtor's counsel may upload an order and appearances at the hearing are excused.

**Attorneys:** Dane W. Exnowski  
Ahren A. Tiller

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**Matter:** MOTION FOR APPROVAL OF MODIFIED CHAPTER 13 PLAN (DATED 2/10/25) AFTER CONFIRMATION FILED ON BEHALF OF BRENDA M MCGOWAN

**Tentative Ruling:**

Hear. The Court has reviewed the Debtor's Motion for Approval of Modified Chapter 13 Plan (the "Motion") (ECF No. 130), the Trustee's Opposition to the Motion (ECF No. 132), the Trustee's Statement of Case Status (ECF No. 134), the Debtor's Declaration in Support (ECF No. 126), and the Debtor's Memorandum of Points and Authorities (ECF No. 127). As a preliminary matter, the Court notes that this Motion was originally filed almost five months ago in October (ECF No. 111), and in fact, the Debtor has now filed the same Memorandum of Points and Authorities (each signed and dated as of October 29, 2024) four separate times. (ECF No. 113, 117, 121, 127.) Additionally and due primarily to the Debtor's filings with respect to the Motion, the docket includes twenty-three filings since the original Motion. While it appears to the Court that aforementioned documents are the operative papers for it to rely on in ruling on this Motion, if the Court has missed reviewing a filing that it should have reviewed, the parties are encouraged to bring that to the Court's attention.

The Debtor here seeks approval of a post-confirmation modification to her Chapter 13 Plan under 11 U.S.C. § ("Section") 1329(a). Modification of a confirmed Chapter 13 Plan "involves, essentially, a new plan confirmation, and the modified plan must comply with the statutory requirements for confirmation of a plan." *In re Than*, 215 B.R. 430, 434 (B.A.P. 9th Cir. 1997). Under Section 1329(b)(1), the confirmation "requirements of section 1325(a) . . . apply to any modification under subsection (a)" as the Debtor proposes here. 11 U.S.C. § 1329(b)(1). One of these requirements, Section 1325(a)(3), requires that a plan (or as here, a modification to a confirmed plan) be proposed by the Debtor in good faith. The burden of establishing that a plan is submitted in good faith is on the debtor. *Fidelity & Casualty Co. Of New York v. Warren (In re Warren)*, 89 B.R. 87, 93 (B.A.P. 9th Cir. 1988). Further, the bankruptcy court has an independent duty to determine that a chapter 13 plan is proposed in good faith. *Villanueva v. Dowell (In re Villanueva)*, 274 B.R. 836, 841 (B.A.P. 9th Cir. 2002).

The Ninth Circuit takes a general approach in determining whether a plan is proposed in good faith and relies on the following factors: the substantiality of proposed plan payments; whether the debtor has misrepresented facts in the plan; whether the debtor has unfairly manipulated the Bankruptcy Code; and whether the plan is proposed in an equitable manner. *In re Goeb*, 675 F.2d 1386, 1390 (9th Cir. 1982). However, there is no requirement for the debtor to demonstrate that he or she has experienced a substantial change in financial circumstances which justifies the proposed modification to reduce Plan payments. *In re Powers*, 202 B.R. 618, 622 (B.A.P. 9th Cir. 1996). Moreover, Section 1329(b)(1) explicitly fails to include the requirements of Section 1325(b)(1) - namely, that the debtor must contribute all of his or her projected disposable income to making plan payments. See *In re Sunahara*, 326 B.R. 768, 781-82 (B.A.P. 9th Cir. 2005).

Here, the Debtor's modified Plan provides for a reduction in monthly Plan payments of \$137.09 without modifying its length. (ECF No. 127 at 4.) This due to the Order Granting Deferment Agreement (ECF No. 97) which in effect, makes this \$137.09 in extra monthly payments unnecessary to cure the Secured Creditor's arrears. (Id. at 2.) In his Opposition, the Trustee argues that the Debtor has failed to provide evidence of a reduction in income or increase in expenses which would justify this change to the Plan payment. (ECF No. 132 at 2.) However, as previously explained, the Debtor need not demonstrate a decrease in net monthly income to modify her plan to lower the monthly payments. Instead, the Court must simply determine whether such modification was proposed in good faith by looking at the factors provided in *In re Goeb*. Applied here, the Court concludes that the Debtor's proposed Plan modification was made in good faith. The \$137.09 in additional payments paid to PennyMac under the Plan is no longer necessary as a result of the Deferment Agreement, and under the Modified Plan, unsecured

creditors will not receive any less than they would have under the currently confirmed plan. In fact, it appears from comparing the two plans that unsecured creditors will instead receive approximately \$6,000 more under the Modified Plan than the current Plan. (See ECF No. 71, Part 5.2.1; ECF No. 130-1, Part 5.2.1.) Accordingly, the Court is inclined to GRANT the Motion and APPROVE the Modified Plan.

**Attorneys:** Ruben F Arizmendi  
Ruben F Arizmendi

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**11:00 AM #17 23-00691-JBM13 Julia E Neher**

**Matter:** HEARING RE: NOTICE OF PRE-CONFIRMATION MODIFICATION (DATED 11/24/24) FILED ON BEHALF OF JULIA E. NEHER (fr 1/14/25)

**Tentative Ruling:**

See Matter #21 for the Court's Tentative Ruling.

**Attorneys:** Scott R. Burton  
Scott R. Burton

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**11:00 AM #18 23-00691-JBM13 Julia E Neher**

**Matter:** HEARING RE: NOTICE OF MODIFIED CHAPTER 13 PLAN (DATED 1/2/25) BEFORE CONFIRMATION FILED ON BEHALF OF JULIA E. NEHER (fr 1/14/25)

**Tentative Ruling:**

See Matter #21 for the Court's Tentative Ruling.

**Attorneys:** Scott R. Burton  
Scott R. Burton

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**11:00 AM #19 23-00691-JBM13 Julia E Neher**

**Matter:** HEARING RE: NOTICE OF MODIFIED CHAPTER 13 PLAN (DATED 1/2/25) BEFORE CONFIRMATION FILED ON BEHALF OF JULIA E. NEHER

**Tentative Ruling:**

1-3) Hear. The Court has reviewed the Debtor's latest Pre-Confirmation Modification to her Chapter 13 Plan (ECF No. 134). It appears that all objections that were filed have been resolved, and as such, the Court anticipates approving the PCM.

**Attorneys:** Scott R. Burton

**11:00 AM #20 23-02799-JBM13 Augustine Calip Tuliao**

**Matter:** AMENDED FEE APPLICATION FOR COMPENSATION TO BE PAID AS AN ADMINISTRATIVE CLAIM FILED BY: ALBERTO CARRANZA

**Tentative Ruling:**

The unopposed Amended Application for Compensation filed by Debtor's counsel (ECF No. 40) complies with the requirements set forth in the Rights and Responsibilities Agreement signed by the Debtor (ECF No. 9 at 40.) Accordingly, the Amended Application is APPROVED as requested. Applicant may submit an order and appearances are excused at the hearing on March 11, 2025.

**Attorneys:** Alberto M. Carranza  
Alberto M. Carranza

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**11:00 AM #21 24-01349-JBM13 Nicholas Arthur Antoniaades**

**Matter:** OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE (fr 1/14/25)

**Tentative Ruling:**

CONTINUE. The Court agrees with the Trustee's Statement of Case Status that the hearing on the Objection to Confirmation and Motion to Dismiss should be continued in light of the Debtor's two objections to the claims submitted by the Franchise Tax Board and IRS, which are still pending. Accordingly, the Court CONTINUES this matter to April 8, 2025, at 11:00 a.m. Appearances at this hearing on March 11, 2025 are excused.

**Attorneys:**  
Henry Ahrens

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**11:00 AM #22 24-01349-JBM13 Nicholas Arthur Antoniaades**

**Matter:** OBJECTION TO PROOF OF CLAIM NO. 4, FRANCHISE TAX BOARD FILED ON BEHALF OF NICHOLAS ARTHUR ANTONIADES

**Tentative Ruling:**

Hear. Having reviewed the Debtor's Objection to the Franchise Tax Board's Claim (ECF No. 43), the FTB's Response to the Claim Objection (ECF No. 47), and the Debtor's Reply to the Response (ECF No. 50), it appears to the Court that it cannot resolve the claim objection on the record before it and that this matter needs to be treated as a contested matter to allow the parties to conduct any discovery they believe they may need regarding both the nominee issue and whether the Debtor had an equitable interest in the property such that the FTB's lien properly attached to the real property. The parties should be prepared to discuss a discovery schedule at the hearing.

**Attorneys:** Caroline Lam

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**11:00 AM #23 24-03287-JBM13 Jose Madrigal**

**Matter:** MOTION FOR APPROVAL OF MODIFIED CHAPTER 13 PLAN (DATED 1/7/25) BEFORE CONFIRMATION FILED ON BEHALF OF JOSE MADRIGAL

**Tentative Ruling:**

APPROVE. The Court has reviewed the Debtor's Modified Chapter 13 Plan (ECF No. 28) and the Trustee's Withdrawal of his Objection to Confirmation (ECF No. 35). It appears that all objections that were filed have been resolved, and as such, the Court anticipates approving the PCM.

**Attorneys:** Ahren A. Tiller  
Ahren A. Tiller

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**11:00 AM #24 24-03563-JBM13 Luzmaria Boyd**

**Matter:** OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

**Tentative Ruling:**

The Court has reviewed Debtor's Withdrawal of Opposition to Trustees Objection to Confirmation of Motion to Dismiss (ECF No. 23) in which Debtor states that Debtor no longer opposes dismissal. The Court will therefore GRANT the Trustee's motion and DISMISS the case. The Trustee may submit an order and appearances at the March 11, 2025 hearing are excused.

**Attorneys:**  
Jeffery R. Menard

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**11:00 AM #25 24-04235-JBM13 Gerald L Ritter**

**Matter:** HEARING RE: AMENDED NOTICE OF MODIFIED CHAPTER 13 PLAN (DATED 2/6/25) BEFORE CONFIRMATION FILED ON BEHALF OF GERALD L RITTER

**Tentative Ruling:**

**Hear.** The deadline to object to the Debtor's Modified Plan runs on March 10, 2025. The Court will therefore hear this matter and, if no objections are timely filed, the Court anticipates it will confirm the Debtor's Modified Plan.

**Attorneys:** Andrew H. Griffin, III  
Andrew H. Griffin, III

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**Matter:** MOTION FOR APPROVAL OF MODIFIED CHAPTER 13 PLAN (DATED 1/24/25) BEFORE CONFIRMATION FILED ON BEHALF OF SOODABEH SAGHRAVANIAN

**Tentative Ruling:**

CONTINUED. The Trustee has filed an Objection to Confirmation and Motion to Dismiss (ECF No. 29) which is set for hearing on April 8, 2025. The Court therefore CONTINUES this hearing on the Debtor's Motion for Approval of Modified Chapter 13 Plan to April 8, 2025, at 11:00 a.m. to be heard concurrently with the Trustee's Motion. Appearances are excused at the hearing on March 11, 2025.

**Attorneys:** Ahren A. Tiller  
Ahren A. Tiller

**Matter:** EMERGENCY EX PARTE MOTION FOR RELIEF FROM THE AUTOMATIC STAY (NON-BANKRUPTCY FORUM LITIGATION) FILED ON BEHALF OF KWAYDE MILLER (ON SHORTENED TIME)

**Attorneys:**  
Thomas B. Gorrill

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