

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

Honorable Christopher D. Jaime
Robert T. Matsui U.S. Courthouse
501 I Street, Sixth Floor
Sacramento, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: January 9, 2024

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
Sacramento, California

January 9, 2024 at 1:00 p.m.

1. [23-23601](#)-B-13 NATALIE SMITH MOTION TO CONFIRM PLAN
 [HWW](#)-2 Hank W. Walth 12-3-23 [[22](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d) (1), 9014-1(f) (1), and Federal Rule of Bankruptcy Procedure 2002(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 confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtor has provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

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

2. [23-23602](#)-B-13 CAMILLA HENDERSON
[LGT-1](#) Timothy J. Walsh

OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE LILIAN G. TSANG
12-4-23 [[15](#)]

Final Ruling

The *initial* Chapter 13 Plan filed October 12, 2023, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to January 16, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtor's plan provides for Onemain Financial as a Class 2 claim in the amount of \$7,865.08 to be paid at 6% interest a monthly dividend of \$152.05 a month. Onemain Financial has filed Claim 1 listing a secured portion of \$8,967.76. Debtor's plan is a 60-month plan and the average monthly dividend proposed for the Class 2 claim of Onemain will take 70 months to pay. To pay the claim in full within the 60-month plan term, a dividend of at least \$173.37 is necessary. 11 U.S.C. § 1325(a)(6).

Second, the plan proposes monthly dividends to Onemain Financial in the amount of \$152.05 and Attorney Fees of \$100.00 per month. As referenced above, based on the claim filed by the secured creditor, the minimum dividend necessary to pay the secured claim in full within 60-months is \$173.37. Accordingly, the monthly payments would total \$273.37 per month without Trustee compensation and expense, and with Trustee compensation and expense total \$302.07 per month. Debtor's plan payment is only \$198.42 per month. Debtor's plan is not feasible. 11 U.S.C. § 1325(a)(6).

The plan filed October 12, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), party in interest shall have until 5:00 p.m. on January 12, 2024, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtor, the Debtor's attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on January 16, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on January 16, 2024, at 1:00 p.m.

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

The court will issue an order.

3. [23-23808](#)-B-13 KATHY KENOLY
[LGT](#)-1 Pro Se

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG,
CHAPTER 13 TRUSTEE
12-18-23 [[19](#)]

Final Ruling

The *initial* Chapter 13 Plan filed November 9, 2023, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c) (4) applies.

The court's decision is to **continue the hearing to January 16, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtor has failed to provide the Trustee with 60 days of proof of rental income received prior to the filing of the petition pursuant to 11 U.S.C. § 521(a) (1) (B) (iv). This is required 7 days before the date set for the first meeting of creditors pursuant to Local Bankr. R. 1007-1.

Second, it cannot be determined if Debtor's plan passes the liquidation test of 11 U.S.C. § 1325(a) (4). Debtor's Schedule C failed to list proper codes to exempt assets. Without proper codes, it cannot be determined if the plan passes the liquidation test.

Third, the Debtor's plan is not proposed in good faith under 11 U.S.C. § 1325(a) (3). The Debtor has failed to properly complete the means test contrary to 11 U.S.C. § 1325(b) (1) (B) and improperly provides for payments to IRS-Back Taxes and San Joaquin County Treasurer as Class 1 claims when they should be classified as Class 2 claims.

Fourth, Debtor's plan is not feasible under 11 U.S.C. § 1325(a) (6). Debtor's plan provides for monthly contract installment payments to SN Servicing but Schedule J lists a mortgage payment as paid directly by Debtor, the plan is not mathematically feasible since the monthly plan payment will need to be greater than what is proposed in Debtor's plan, the plan does not specify a specific amount for "any state and federal refunds, and rental income from family member," and the plan provides for Eclipse RTO LLC as a Class 2 claim to be paid the value of the collateral but the court has not entered an order on a motion to value that collateral.

Fifth, Debtor's Form 122C-1 lists gross income that is not consistent with the pay stubs provided for the six months prior to filing. It cannot be determined whether the plan provides that all of Debtors projected disposable income to be received in the applicable commitment period will be applied to make payments to unsecured creditors under the plan. 11 U.S.C. § 1325(b).

Sixth, based on Debtor's Form 122C-2, Debtor has monthly disposable income to pay 100% dividend to general unsecured creditors. However, Debtor's plan provides for 0% distribution to general unsecured creditors. Therefore, the plan fails to comply with 11 U.S.C. § 1325(b) (1) (B).

Seventh, based on Debtor's scheduled income and expenses, Debtor's monthly net income is \$1,240.54 but the proposed monthly plan payment for 60 months is \$1,942.38. The Debtor cannot afford plan payments.

The plan filed November 9, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c) (4) and 9014-1(f) (2), party in interest shall have until 5:00 p.m. on January 12, 2024, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c) (4), 9014-1(f) (2) (C). Any response shall be served on the Chapter 13 Trustee, the Debtor, the Debtor's attorney, and/or the attorney for the objecting party by facsimile

or email.

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on January 16, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on January 16, 2024, at 1:00 p.m.

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

The court will issue an order.

4. [22-22612](#)-B-13 LAWRENCE/JENNY BOLDON CONTINUED OBJECTION TO CLAIM OF
[BSH](#)-9 Brian S. Haddix HARLEY DAVIDSON CREDIT CORP.,
CLAIM NUMBER 16
11-5-23 [[130](#)]

Final Ruling

Debtors Lawrence Boldon and Jenny Boldon having filed a notice of withdrawal of their objection to claim of Harley Davidson Credit Corp., Claim No. 16, the objection is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

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

5. [23-23118](#)-B-13 BRIAN HEATH MOTION FOR RELIEF FROM
[ETW](#)-1 Pro Se AUTOMATIC STAY
Thru #7 11-21-23 [[33](#)]
ROGER MEADOWS VS.

Final Ruling

The case having been dismissed at Item #7, LGT-2, the motion for relief from automatic stay is denied as moot.

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

The court will issue an order.

6. [23-23118](#)-B-13 BRIAN HEATH CONTINUED OBJECTION TO
[LGT](#)-1 Pro Se CONFIRMATION OF PLAN BY LILIAN
G. TSANG
11-8-23 [[29](#)]

Final Ruling

The case having been dismissed at Item #7, LGT-2, the continued objection to confirmation of plan is overruled as moot.

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

The court will issue an order.

7. [23-23118](#)-B-13 BRIAN HEATH CONTINUED MOTION TO DISMISS
[LGT](#)-2 Pro Se CASE
12-1-23 [[39](#)]

Final Ruling

This matter was continued from December 19, 2023, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, December 22, 2023. Nothing was filed. Therefore, the court's conditional ruling at dkt. 47, granting the motion to dismiss case, shall become the court's final decision. The continued hearing on January 9, 2024, at 1:00 p.m. is vacated.

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

The court will issue an order.

8. [23-23322](#)-B-13 MATTHEW/TERESA LOVATO
[MDA-1](#) Brian S. Haddix

MOTION TO CONFIRM PLAN
11-7-23 [[17](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(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 confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtors have provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

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

9. [19-21429](#)-B-13 JAYCEE DEVERA
[JCK](#)-8 Gregory J. Smith

CONTINUED MOTION TO MODIFY PLAN
10-26-23 [[136](#)]

Final Ruling

This matter was continued from December 12, 2023, to provide the Debtor additional time to become current under the modified plan. The Debtor stated in her response dated January 4, 2024, that she will become current by January 5, 2024, or at least by January 8, 2024.

The Chapter 13 Trustee filed a supplemental ex parte motion to dismiss its opposition stating that the Debtor has cured the delinquency and addressed the issue of feasibility.

There being no other objection to confirmation, the plan filed October 26, 2023, will be confirmed.

The motion is ORDERED GRANTED 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.

10. [23-22530](#)-B-13 SHA SHAVONDILA PIERSON CONTINUED OBJECTION TO
[LGT-1](#) Pro Se CONFIRMATION OF PLAN BY LILIAN
Thru #11 G. TSANG
9-27-23 [[24](#)]

Final Ruling

The case having been dismissed at Item #11, LGT-2, the continued objection to confirmation of plan is overruled as moot.

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

The court will issue an order.

11. [23-22530](#)-B-13 SHA SHAVONDILA PIERSON CONTINUED MOTION TO DISMISS
[LGT-2](#) Pro Se CASE
12-1-23 [[65](#)]

Final Ruling

This matter was continued from December 19, 2023, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, December 22, 2023. Nothing was filed. Therefore, the court's conditional ruling at dkt. 85, granting the motion to dismiss case, shall become the court's final decision. The continued hearing on January 9, 2024, at 1:00 p.m. is vacated.

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

The court will issue an order.

Final Ruling

The *initial* Chapter 13 Plan filed October 20, 2023, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to January 16, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtors' plan fails to state the monthly dividend payable for attorney fees. 11 U.S.C. § 1325(a)(6). Additionally, Debtors' Form 2030 Disclosure of Compensation of Attorney for Debtors states that the agreed upon fee of \$4,800.00 does not include representation of debtors in any judicial lien avoidances and relief from stay actions. This is contradictory to the Rights and Responsibilities signed by Debtors and their attorney. These services are included in the "No Look Fee" and should not be excluded.

Second, based on a review and analysis of Debtors' schedules, Debtors have non-exempt assets of \$7,658.00 available for distribution to general unsecured creditors and nonpriority general unsecured claims totaling \$85,201.00. Therefore, in order to meet the liquidation test of 11 U.S.C. § 1325(a)(4), Debtors' plan must pay 8.99% (\$7,658.00 divided by \$85,201.00) to Debtors' general unsecured creditors. Debtors' plan pays 6% and accordingly fails the liquidation test.

Third, Debtors' monthly disposable income of \$728.14 is not being applied to make payments to unsecured creditors pursuant to 11 U.S.C. § 1325(b)(1)(B). Based on the non-priority general unsecured claimed scheduled totaling \$85,201.00, the dividend to general unsecured creditors should be 51%. Debtors' plan provides for only a 6% distribution.

Fourth, Debtors' plan lists a claim owed to Rocket Mortgage in Class 1 but fails to provide for the pre-petition arrears owed, a monthly dividend payable to those arrears, or an ongoing mortgage payment. Debtors' Schedule J includes a housing expense at Line 4. However, Debtors testified that the correct classification of the mortgage claim is as a Class 4 claim. With the misclassification of the mortgage creditor, Debtors' plan is not feasible. 11 U.S.C. § 1325(a)(6).

The plan filed October 20, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), party in interest shall have until 5:00 p.m. on January 12, 2024, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtors, the Debtors' attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on January 16, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on January 16, 2024, at 1:00 p.m.

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

The court will issue an order.

13. [23-23733](#)-B-13 OLIVER/DINAH JARATA OBJECTION TO CONFIRMATION OF
AP-1 Drew Henwood PLAN BY U.S. BANK NATIONAL
Thru #14 ASSOCIATION
11-29-23 [[25](#)]

Final Ruling

The *initial* Chapter 13 Plan filed November 2, 2023, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to January 16, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

Objecting creditor U.S. Bank National Association holds a deed of trust secured by the Debtors' residence. The creditor has filed a timely proof of claim in which it asserts \$158,624.03 in pre-petition arrearages. The creditor objects to confirmation on grounds that the proposed monthly plan payment of \$3,812.00 is insufficient to cure the pre-petition arrears and maintain the post-petition payments of \$4,857.48 through the plan term. The plan is not feasible pursuant to 11 U.S.C. § 1325(a)(6).

The plan filed November 2, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), party in interest shall have until 5:00 p.m. on January 12, 2024, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtors, the Debtors' attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on January 16, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on January 16, 2024, at 1:00 p.m.

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

The court will issue an order.

14. [23-23733](#)-B-13 OLIVER/DINAH JARATA OBJECTION TO CONFIRMATION OF
[LGT-1](#) Drew Henwood PLAN BY LILIAN G. TSANG
12-15-23 [[28](#)]

Final Ruling

The *initial* Chapter 13 Plan filed November 2, 2023, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to January 16, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtors' plan fails to state the monthly dividend payable for attorney fees. 11 U.S.C. § 1325(a)(6). Additionally, Debtors' Form 2030 Disclosure of Compensation of Attorney for Debtors states that the agreed upon fee of \$8,500.00 does not include representation of debtors in any judicial lien avoidances and relief from stay actions. This is contradictory to the Rights and Responsibilities signed by Debtors and their attorney. These services are included in the "No Look Fee" and should not be excluded.

Second, based on a review and analysis of Debtors' schedules, Debtors have non-exempt assets of \$8,917.50 available for distribution to general unsecured creditors and nonpriority general unsecured claims totaling \$157,251.00. Therefore, in order to meet the liquidation test of 11 U.S.C. § 1325(a)(4), Debtors' plan must pay 5.67% (\$8,917.50 divided by \$157,251.00) to Debtors' general unsecured creditors. Debtors' plan pays 0% and accordingly fails the liquidation test.

Third, Debtors' monthly disposable income of \$132.87 is not being applied to make payments to unsecured creditors pursuant to 11 U.S.C. § 1325(b)(1)(B). Based on the non-priority general unsecured claimed scheduled, the dividend to general unsecured creditors is \$7,972.20. Debtors' plan provides for 0% distribution.

Fourth, Debtors' Schedule I at Line 5c includes voluntary contribution for retirement plans in the amount of \$689.65 for Mr. Jarata and \$2,292.16 for Mrs. Jarata. That expense is not reasonably necessary to be expended for the maintenance or support of the Debtors or a dependent of the Debtors and, accordingly, is inappropriate. Debtors' plan is not proposed in good faith. 11 U.S.C. § 1325(a)(3).

Fifth, Debtors' Schedule J lists a housing expense of \$4,557.90. Debtors' mortgage creditor is listed in Class 1 of the plan and accordingly the expense on Schedule J is inappropriate.

Sixth, the plan improperly classifies Mercedes-Benz Financial, Patelco Credit Union in Class 4 when it should be in Class 2 since it will mature within the 60-month plan term and should be paid through the plan. With the misclassification, Debtors' plan is not feasible. 11 U.S.C. § 1325(a)(6).

Seventh, the monthly payments owed to secured creditors total \$7,524.65 per month without Trustee compensation and expense, and with Trustee compensation and expense total \$8,314.53 per month. Debtors' plan payment is only \$3,812.00 per month. Accordingly, Debtors' Plan is not feasible. 11 U.S.C. § 1325(a)(6).

The plan filed November 2, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), party in interest shall have until 5:00 p.m. on January 12, 2024, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtors, the Debtors' attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on January 16, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on January 16, 2024, at 1:00 p.m.

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

The court will issue an order.

15. [23-22638](#)-B-13 JEFFERY HANSEN AND STACEY MOTION TO CONFIRM PLAN
[PGM-1](#) HORSLEY-HANSEN 11-22-23 [[52](#)]
Thru #16 Peter G. Macaluso

Introduction

Before the court is a *Motion to Confirm First Amended Plan* filed on November 22, 2023, filed by debtors Jeffery Wayne Hansen and Stacey Lynn Horsley-Hansen aka Stacey Lynne Horsley aka Stacey Lynne Hansen ("Debtors"). Dkt. 52. Both Customers Bank ("Bank") and the Chapter 13 Trustee ("Trustee") filed oppositions to the motion/objections to confirmation of the First Amended Plan on the basis the Debtors are ineligible to be Chapter 13 debtors because their debts exceed the \$2,750,000 statutory cap of 11 U.S.C. § 109(e). See, respectively, dkts. 65, 69. Debtors filed responses to both oppositions/objections. Dkts. 72, 74.

The court has reviewed the motion, oppositions/objections, responses, and all related declarations and exhibits. The court has also reviewed and takes judicial notice of the docket and the claims register. See Fed. R. Evid. 201(c)(1). Oral argument is not necessary and will not assist in the decision-making process. See Local Bankr. R. 1001-1(f), 9014-1(h). The motion will be decided on the papers.

The court's decision is to sustain the objections, deny the motion and confirmation of the First Amended Plan and, absent voluntary conversion to a case under another eligible chapter or voluntary dismissal, order this Chapter 13 case dismissed.

Background

The Debtors filed their Chapter 13 petition on August 7, 2023. Dkt. 1. Original schedules were filed on August 21, 2023. Dkt. 16. Debtors scheduled their debt to the Bank in the original schedules as a single \$1.00 unsecured claim. Dkt. 16, Sch. E/F at 19, Item 4.8. The "unliquidated" and "disputed" boxes on the original schedules are checked for this debt. The "contingent" box is not checked.

The Bank filed three proofs of claim which total \$4,718,005.12: (1) Claim No. 21-1 at of \$3,563,430.72; (2) Claim No. 22-1 at \$847,603.16; and (3) Claim No. 23-1 at \$306,971.24.¹ The Bank's claims are based on the Debtors' unconditional guaranties of three loans to A.H. Wines, a corporation that is wholly owned by Mr. Hansen.²

The Bank raises a bad-faith objection to confirmation of the First Amended Plan. It asserts that the "Debtors improperly scheduled [its] debt at \$1.00 in a bad faith, transparent and cynical attempt to qualify for eligibility for Chapter 13." Dkt. 65 at 2:2-3. It also asserts that, properly scheduled, its claims alone exceed the statutory cap of § 109(e) for Chapter 13 debtors. The Trustee makes a similar eligibility argument based on total debts that exceed the § 109(e) statutory cap.

Debtors assert their debt to the Bank is not considered in the § 109(e) eligibility analysis and it is appropriately scheduled in the amount of \$1.00 because the debt is contingent, unliquidated, and disputed.³ Debtors further assert that excluding their debt to the Bank from the eligibility analysis brings their total noncontingent,

¹Claims filed in the case total \$5,779,296. No objections to any of the claims have been filed. All proofs of claim are therefore "prima facie evidence of the validity and amount of the claim," Fed. R. Bankr. P. 3001(f), and allowed. 11 U.S.C. § 502(a).

²A.H. Wines filed a chapter 7 petition on September 28, 2023, as Case No. 23-23394.

³The "contingent" argument appears only in the Debtors' responses. As noted above, the "contingent" box on the original Schedule E/F is not checked and only the "unliquidated" and "disputed" boxes are checked.

liquidated debts below the § 109(e) statutory cap of \$2,750,000 making them eligible to be Chapter 13 debtors.

Discussion

Chapter 13 is limited to individuals whose debts do not exceed \$2,750,000. 11 U.S.C. § 109(e). Eligibility debt limits are strictly construed. *Soderlund v. Cohen (In re Soderlund)*, 236 B.R. 271, 274 (9th Cir. BAP 1999).

Chapter 13 eligibility under § 109(e) is “normally be determined by the debtor’s originally filed schedules, checking only to see if the schedules were made in good faith.” *Scovis v. Henrichsen (In re Scovis)*, 249 F.3d 975, 982 (9th Cir. 2001). However, a bankruptcy court may look beyond the schedules to other evidence if there are allegations or indicia that the schedules were not filled out in good faith. *Scovis*, 249 F.3d at 982; see also *Fountain v. Deutsche Bank Nat’l Tr. Co. (In re Fountain)*, 612 B.R. 743, 748 (9th Cir. BAP 2020) (“[W]here a good faith objection to eligibility has been filed by a party in interest, the bankruptcy court can make a limited inquiry outside of the schedules to determine if the Debtor estimated her debts in good faith, and if not, whether she was eligible for chapter 13 relief.”); *In re Smith*, 419 B.R. 826, 829 (Bankr. C.D. Cal. 2009), *aff’d sub nom., Smith v. Rojas (In re Smith)*, 435 B.R. 637 (9th Cir. BAP 2010).

Debtors do not dispute they signed unconditional guaranties, that the guaranties are unconditional, or that they may owe something more than \$1.00 on the guaranties. See *dk. 72 at 2:2-11*. Scheduling the debt owed the Bank as a single \$1.00 unliquidated and disputed claim was therefore a bad faith manipulation of the original schedules by the Debtors in an effort to conjure up Chapter 13 eligibility. That permits the court to look beyond the originally-filed schedules and consider “other evidence” to determine the Debtors’ Chapter 13 eligibility. The other evidence considered consists of the claims register, generally, and the Bank’s claims in particular. See *Fountain*, 612 B.R. at 748-49. And so considered, the Debtors’ noncontingent, liquidated debts exceed \$2,750,000 making them ineligible under § 109(e) to be Chapter 13 debtors. In fact, the court need only consider the debt owed to the Bank to reach this conclusion.

The Debtors’ debt to the Bank is noncontingent. As noted above, not only is the “contingent” box not checked on the original schedules, but, the event that purportedly makes the debt to the Bank contingent is a postpetition event in this Chapter 13 case which the Debtors assert may reduce their liability on their guaranties, *i.e.*, liquidation of the estate in the A.H. Wines Chapter 7 case. See *dk. 72 at 2, ¶ 3*. However, because Chapter 13 eligibility is determined as of the petition date, postpetition events that result in adjustments to debts are not relevant in the eligibility analysis. *Slack v. Wilshire Ins. Co. (In re Slack)*, 187 F.3d 1070, 1073 (9th Cir. 1999); *Fountain*, 612 B.R. at 748; *In re Harwood*, 519 B.R. 535, 539 (Bankr. N.D. Cal. 2014).

The Debtors’ debt to the Bank is also liquidated. The debt is contractual in nature. It finds its origins in loans under promissory notes and the Debtors’ unconditional guaranties of the same. It is therefore readily determinable as to amount, and was so on the petition date of this Chapter 13 case, even if the Debtors’ liability on the guaranties, which they do not dispute, may be satisfied or reduced by or from another source or a co-obligor. *Fostvedt v. Dow (In re Fostvedt)*, 823 F.2d 205, 206 (9th Cir. 1987) (holding that debt based on promissory note readily determinable and therefore liquidated even if someone else may pay some or all of the debt to reduce debtor’s liability). Moreover, the only basis offered by the Debtors in support of their assertion that the debt is unliquidated is a statement in the response that “they do not believe that they owe \$4,995,849.00[.]” *Dkt. 72 at 2:8-9*. The Ninth Circuit has made it clear that “the mere assertion by the debtor that he is not liable for the claim will not render the debt unliquidated for the purposes of calculating eligibility under § 109(e).” *Slack*, 187 F.3d at 1074.

And although the debt owed to the Bank may be disputed, “disputed claims are not excluded from the eligibility calculation.” *Guastella v. Hampton (In re Guastella)*, 341 B.R. 908, 916 (9th Cir. BAP 2006).

The point here is that the Debtors have noncontingent, liquidated debts that exceed the \$2,750,000 statutory cap of § 109(e).⁴ Indeed, the debt owed to the Bank by itself is enough to render the Debtors ineligible under § 109(e) to be Chapter 13 debtors.

Conclusion

Based on the foregoing, the Bank's and the Trustee's objections to confirmation of the First Amended Plan are **SUSTAINED**. The Debtors' motion to confirm-and confirmation of- the First Amended Plan are **DENIED**.

Further, because the Debtors are ineligible to be Chapter 13 debtors they will have until **January 16, 2024**, to convert this case to a case under another eligible chapter or request voluntary dismissal. If this case is not voluntarily converted or dismissed by **January 16, 2024**, it will be **DISMISSED** upon submission of an *ex parte* order of dismissal by the Bank which incorporates this ruling and states only that the Chapter 13 case is dismissed without prejudice for the reasons stated herein.

The court will issue an order.

16. [23-22638](#)-B-13 JEFFERY HANSEN AND STACEY MOTION TO APPROVE LOAN
[PGM](#)-2 HORSLEY-HANSEN MODIFICATION
 Peter G. Macaluso 11-29-23 [[60](#)]

Final Ruling

The motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). However, there appears to be insufficient service of process on Select Portfolio Servicing, Inc. The address used by the Debtors does not appear on the California Secretary of State website or Better Business Bureau website. In fact, it appears that the address used was a general correspondence mailing address. Therefore, the court's decision is to deny the motion without prejudice.

The motion is ORDERED DENIED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

⁴The Debtors now appear to acknowledge this in an amended Schedule E/F filed on November 20, 2023, on which neither the "contingent," "unliquidated," nor "disputed" boxes are checked. Dkt. 51, Amend. Sch. E/F at 5, Item 4.4. Schedules are signed and filed under penalty of perjury. Fed. R. Bankr. P. 1008. As such, they have evidentiary value. See *Perfectly Fresh Farms, Inc. v. U.S. Dep't of Agric.*, 692 F.3d 960, 969 (9th Cir. 2012).

17. [23-23842](#)-B-13 ANGELA BECERRA
[LGT](#)-1 Carl R. Gustafson

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
12-15-23 [[16](#)]

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 October 27, 2023, 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.

18. [23-23346](#)-B-13 JOSHUA/CELINA LANE
[EJV](#)-1 Eric J. Gravel

MOTION TO CONFIRM PLAN
11-27-23 [[25](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(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 confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtors have provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

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

Final Ruling

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d) (1), 9014-1(f) (1), and Federal Rule of Bankruptcy Procedure 2002(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). Opposition was filed. [The court will address the merits of the motion at the hearing.]

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 confirm the first amended plan.

First, the motion to confirm does not comply with requirements of Federal Rule of Bankruptcy Procedure 9013 because it does not plead with particularity the grounds upon which the requested relief is based. Fed. R. Civ. P. 7(b) states the same. While the motion and declaration state the Debtors have filed a first amended plan and moves the court to confirm it, the motion does not provide information that would be of use to the parties, such as a brief description of the plan, an explanation as to what has changed, and a summary of prior events that have brought the Debtors to file and request confirmation of this first amended plan.

Second, the Debtors have failed to provide admissible evidence that their plan is mathematically feasible. A review of the claims filed in debtors' case indicates general unsecured claims in the amount of \$164,022.88. Trustee's calculations indicate that debtors' average plan payment will need to be at least \$919.00 in order for debtors' plan to be feasible as proposed paying unsecured creditors 8%. 11 U.S.C. § 1325(a) (6).

Third, the monthly payments owed to secured creditors total \$725.00 per month without Trustee compensation and expense, and with Trustee compensation and expense total \$801.11 per month. Debtors' plan payment is only \$385.00 per month in months 1 and 2. Accordingly, Debtors' plan is not feasible. 11 U.S.C. § 1325(a) (6).

Fourth, Debtors' Schedules list the Internal Revenue Service as a priority and unsecured claim. The Internal Revenue has filed a proof of claim listing a secured portion of \$3,854.64. Debtors' plan does not list this claim. Debtors' amended budget and amended Statement of Financial Affairs are silent as to treatment of this creditor. It cannot be determined whether this creditor is to be paid and, if it is to be paid, how it is to be paid, which impacts whether Debtors will be able to make all payments under the plan and comply with the plan. 11 U.S.C. § 1325(a) (6).

The amended plan does not comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is not confirmed.

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

The court will issue an order.

20. [23-23456](#)-B-13 GERARDO MEDEL
[HWW](#)-2 Hank W. Walth
Thru #21

MOTION TO CONFIRM PLAN
11-21-23 [[27](#)]

Final Ruling

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(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). 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 confirm the first amended plan.

First, the Debtor is \$1,340.00 delinquent in plan payments to the Trustee. The next scheduled payment of \$1,340.00 is due on December 25, 2023. The case was filed on September 30, 2023. The Debtor has paid \$500.00 into the plan to date. 11 U.S.C. §§ 1325(a)(2), (a)(6).

Second, Debtor's Schedules list Freedom Truck Finance for the 2012 Freightliner Cascadia as a Class 7 claim. Vervent Inc. as servicer for Freedom Truck Finance has filed a secured Claim 11-1 in the amount of \$29,217.13. Debtor's plan does not list this claim. Debtor's amended budget and Statement of Financial Affairs are silent as to treatment of this creditor. It cannot be determined whether the Debtor intends to pay this creditor and, if it is to be paid, how it is to be paid, which impacts whether Debtor will be able to make all payments under the plan and comply with the plan. 11 U.S.C. § 1325(a)(6).

The amended plan does not comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is not confirmed.

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

The court will issue an order.

21. [23-23456](#)-B-13 GERARDO MEDEL
[HWW](#)-3 Hank W. Walth

MOTION TO VALUE COLLATERAL OF
ALLEGIAN T PARTNERS, INC.
12-11-23 [[34](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). 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 value the secured claim of Allegiant Partners, Inc. at \$20,000.00

Debtor moves to value the secured claim of Allegiant Partners, Inc. ("Creditor"). Debtor is the owner of a 2014 Freightliner Cascadia sleeper cab mid-roof XT truck ("Vehicle"). The Debtor seeks to value the Vehicle at a replacement value of

\$20,000.00 as of the petition filing date. As the owner, Debtor's opinion of value is evidence of the asset's value. See Fed. R. Evid. 701; see also *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

Proof of Claim Filed

The court has reviewed the Claims Registry for this bankruptcy case. Claim No. 5-1 filed by Allegiant Partners, Inc. is the claim which may be the subject of the present motion.

Discussion

The Debtor states in his motion that the Vehicle was purchased over 1 year prior to the filing of this case and used for his trucking business and not for personal use. Pursuant to 11 U.S.C. § 506(a)(2), the value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of the filing of the petition without deduction for costs of sale or marketing. The time limitation to offer the fair market value of personal property is more than one year prior to the filing of the petition. See 11 U.S.C. § 1325(a).

Debtor states that the Vehicle is in good condition with approximately 865,620 miles at the commencement of this case. Debtor contends that the replacement value of the Vehicle is \$20,000.00. No other creditors hold senior liens or security interests. Therefore, the Creditor's claim secured by a lien on the asset's title is under-collateralized. The Creditor's secured claim is determined to be in the amount of \$20,000.00. See 11 U.S.C. § 506(a). The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a) is granted.

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

The court will issue an order.

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). 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 grant the motion for joint administration.

Debtor Mary Ybarra ("Debtor") moves for the court to jointly administer her case and the separate case of her husband David J. Ybarra (case no. 23-24330) pursuant to Federal Rule of Bankruptcy Procedure 1015(b).

Federal Rule of Bankruptcy Procedure 1015(b) governs joint administration of cases pending in the same court with two or more related debtors, providing that if a joint petition or two or more petitions are pending in the same court by or against a husband and wife, the court may order a joint administration of the estates. Prior to entering an order, the court shall give consideration to protecting creditors of different estates against potential conflicts of interest.

Joint administration is a procedural tool that aids expediting cases. *Reider v. F.D.I.C. (In re Reider)*, 31 F.3d 1102, 1109 (11th Cir. 1994) ("Joint administration is designed for the ease of administration . . ."). Joint administration permits using a single docket for administration, which includes listing filed claims, combining notices to creditors of different estates, and jointly handling ministerial matters. *Id.* (citing FED. R. BANKR. P. 1015 (Note 3 of Advisory Committee)). Joint administration is used for convenience and to save costs. *Id.* (citing *Unsecured Creditors Comm. v. Leavitt Structural Tubing Co.*, 55 B.R. 710, 712 (N.D. Ill. 1985)).

Discussion

Debtor states that joint administration of the two cases will eliminate duplicative actions and will promote judicial economy. Specifically, Debtor states that there are common creditors and that the two debtors are spouses. Both of the debtors have also claimed the same exemptions. Counsel Peter G. Macaluso, who represents both debtors, has agreed to only one fee in the joint administration of the cases.

There is a sufficient similarity of the causes leading to this case that it is plausible to believe that there will be similar matters to address between the two cases. Additionally, it is plausible to believe that identical motions would be filed and that there would be identical creditor claims. Joint administration of these two cases is in the best interest of creditors and provides for economic administration of these cases.

The Motion requesting that case no. 23-24356 and case no. 23-24330 be administered jointly pursuant to Federal Rule of Bankruptcy Procedure 1015(b) is granted.

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

The court will issue an order.

23. [22-21861](#)-B-13 BASILIO MIRANDA
[LGT](#)-1 Charles L. Hastings

CONTINUED MOTION TO DISMISS
CASE
10-11-23 [[50](#)]

Final Ruling

This matter was continued from November 14, 2023. The Chapter 13 Trustee did not file a timely response stating approval or disapproval of a continuance for an additional 45 days from November 14, 2023, as required in the court's order. Dkt. 61. Nonetheless, the Debtor's successor's requested continuance has expired and the Debtor's successor has failed to file a motion to refinance or an amended plan. See dkt. 56.

Rather than dismiss the case at this time, the Debtor shall have until 5:00 p.m. Friday, January 12, 2024, to file a motion to refinance or an amended plan. If neither is filed by the deadline, the case shall be dismissed on the Trustee's ex parte application.

The court will issue an order.

24. [20-22371](#)-B-13 VICTOR/VARNA FACHA
[JLL](#)-3 Jennifer G. Lee

MOTION TO MODIFY PLAN
11-15-23 [[105](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 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). 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 permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtors have filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

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

25. [23-21890](#)-B-13 ESTHER CHAVEZ
[LGT](#)-2 James D Hornbuckle

CONTINUED MOTION TO DISMISS
CASE
12-1-23 [[52](#)]

Final Ruling

This matter was continued from December 19, 2023, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, December 22, 2023. Debtor filed a timely response stating that she has filed a Notice of Hearing on Confirmation of Debtor's First Amended Chapter 13 Plan. The confirmation hearing is set for January 23, 2024, at 1:00 p.m. This resolves the basis for dismissing the case at this time.

Therefore, the court's conditional ruling at dkt. 59 and the continued hearing on January 9, 2024, at 1:00 p.m. are vacated. The motion to dismiss case is denied without prejudice.

The motion is ORDERED DENIED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

26. [19-27991](#)-B-13 PAUL/DESIRE WHATLEY MOTION TO SELL
[TLC-2](#) Tamie L. Cummins 12-5-23 [[50](#)]

Final Ruling

The motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). 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). The defaults of the non-responding parties are entered.

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 sell.

The Bankruptcy Code permits Chapter 13 debtors to sell property of the estate after a noticed hearing. 11 U.S.C. §§ 363(b) and 1303. Debtors propose to sell property described as 584 Channel Drive, Lathrop, California ("Property").

Proposed purchasers Ramandeep Singh and Kuldeep Singh have agreed to purchase the Property for \$770,000.00. The sale price is all cash, the sale is an arm's length transaction, the Debtors understand that the lien against the Property must be paid through the sale of their home, and the sale will be used to pay 100% of all timely filed claims.

Cenlar FSB, servicer for AmeriHome Mortgage Company, LLC ("AMC"), filed a conditional non-opposition to the motion to sell. AMC is a secured creditor with regard to the Property and has no opposition to the Debtors' motion so long as any form of order states that approval of the sale is contingent upon AMC's receipt of proceeds sufficient to pay AMC's lien in full, as determined by the date demand made upon AMC at closing from an unexpired payoff quote.

Based on the evidence before the court, the court determines that the proposed sale is in the best interest of the estate. The motion is granted.

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

Debtors' attorney shall submit an order consistent with the Trustee's standard sale order. The order shall be approved by the Trustee.