

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

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

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: JANUARY 21, 2025

CALENDAR: 1:00 P.M. CHAPTER 13

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

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

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

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

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

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Modesto, California

January 21, 2025 at 1:00 p.m.

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1. [24-90603](#)-B-13 GEORGE JACOB CONTINUED OBJECTION TO
AP-1 David C. Johnston CONFIRMATION OF PLAN BY
Thru #2 CREDITOR WILMINGTON SAVINGS
FUND SOCIETY, FSB
12-11-24 [[29](#)]

Final Ruling

The *initial* Chapter 13 Plan filed November 3, 2024, 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 28, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

Objecting creditor Wilmington Savings Fund Society, FSB holds a deed of trust secured by the Debtor's residence. The creditor has filed a timely proof of claim in which it asserts \$7,683.54 in pre-petition arrearages. The plan does not propose to cure these arrearages. Because the plan does not provide for the surrender of the collateral for this claim, the plan must provide for full payment of the arrearage and maintenance of the ongoing note installments. See 11 U.S.C. §§ 1322(b)(2), (b)(5) and 1325(a)(5)(B). Because it fails to provide for the full payment of arrearages, the plan cannot be confirmed.

The plan filed November 3, 2024, 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), any party in interest shall have until 5:00 p.m. on January 24, 2025, 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 28, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on January 28, 2025, at 1:00 p.m.

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

The court will issue an order.

January 21, 2025 at 1:00 p.m.

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2. [24-90603](#)-B-13 GEORGE JACOB
[LGT](#)-1 David C. Johnston

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY LILIAN
G. TSANG
12-5-24 [[26](#)]

Final Ruling

The *initial* Chapter 13 Plan filed November 3, 2024, 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 28, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

Although no Trustee's Report at the January 15, 2025, 341 meeting of creditors appears on the court's docket, at a minimum the Debtor is ineligible for chapter 13 under the 11 U.S.C. § 109(e) debt limits effective June 21, 2024. The unsecured debt limit is currently set at \$465,275.00. The current case has scheduled \$952,900.00 in general unsecured debt. Dkt. 19:25. Upon review of the court's docket, a total of \$482,156.28 in general unsecured claims has been filed. Therefore, the scheduled and filed claims are over the unsecured debt limit set forth in Section 109(e) and Debtor is ineligible for chapter 13 relief.

The plan filed November 3, 2024, 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), any party in interest shall have until 5:00 p.m. on January 24, 2025, 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 28, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on January 28, 2025, at 1:00 p.m.

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

The court will issue an order.

3. [24-90206](#)-B-13 LUIS MEJIA AND MARTA MOTION FOR COMPENSATION FOR
[DFH](#)-4 SAAVEDRA CADENA DREW HENWOOD, DEBTORS
Drew Henwood ATTORNEY(S)
12-10-24 [[98](#)]

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 request for relief under Fed. R. Civ. P. 60(b).

Drew Henwood ("Movant"), the attorney to Chapter 13 Debtors, requests an election to seek compensation of under Local Bankr. R. 2016-1(c). Movant states that although he indicated this intent in the plan and Disclosure of Compensation of Attorney for Debtor(s), he failed to check the box in the confirmed plan filed September 13, 2024, and that he should be granted relief under Fed. R. Civ. P. 60(b) for this inadvertence. After application of the \$2,500.00 retainer, Movant seeks \$7,500.00 in additional compensation to be paid through plan distributions.

A review of the confirmed plan shows that the box at Section 3.05 of the September 13, 2024, plan was checked indicating that Debtors' attorney would seek attorney's fees by "complying with Local Bankr. R. 2016-1(c)." Dkt. 72. The December 3, 2024, order confirming the September 13, 2024, plan contains a similar provision and also a conflicting amended provision that states attorney's fees would be sought by separate application. See dkt. 95. The court is unsure how or why the amended provision was included in the confirmation order when there was no objection to confirmation of the September 13, 2024, plan by the Chapter 13 Trustee or any other party in interest. **Included as what appears to be an after-thought, and the clear intent being to provide for the payment of attorney's fees under Local Bankr. R. 2016-1(c), the provision regarding the payment of attorney's fees by separate motion in ¶ 1 on page 2, lines 6-7, of the December 3, 2024, confirmation order at dkt. 95 are STRICKEN.** Therefore, Movant's request for relief under Fed. R. Civ. P. is **GRANTED**.

The court also notes that the amended Disclosure of Compensation of Attorney for Debtor(s), dkt. 22, states at Section 6 that Movant's representation does not include judicial lien avoidances or relief from stay actions. These services are required when electing compensation under Local Bankr. R. 2016-1(c) ("Except for adversary proceedings, the flat fee includes all prepetition and post petition services rendered and costs incurred"). They are also required as basic services under Local Bankr. R. 2017-1. The signed Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys also provides that the attorney agrees to services related to motions to avoid liens and motions for relief from stay. Dkt. 21, p. 3, para. 13, 14. Therefore, these services cannot be withdrawn. Counsel is **ORDERED** to file an amended compensation disclosure form by January 28, 2025, that includes the omitted basic service.

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

The court will issue an order.

4. [24-90506](#)-B-13 BOBBI RODRIQUEZ
[LGT](#)-2 Pro Se

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
12-20-24 [[60](#)]

Final Ruling

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

The court's decision is to sustain the objection to the claim of exemptions.

Debtor Bobbi Rodriguez ("Debtor") failed to identify the specified laws that allow exemptions of real property, household goods, electronics, clothing, and jewelry in amended Schedule C.

The Trustee's objection is sustained and the claim for exemptions is disallowed.

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

The court will issue an order.

5. [24-90640](#)-B-13 JEANNE/DOYLE PHILLIPS
[LGT](#)-1 Pro Se

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
12-20-24 [[17](#)]

DEBTORS DISMISSED: 01/03/25

Final Ruling

The case having been dismissed on January 3, 2025, the 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.

6. [24-90445](#)-B-13 GONZALO/LUCILA PALOMINOS AMENDED MOTION TO CONFIRM PLAN
[RPK](#)-1 Ryan Keenan 12-16-24 [[49](#)]

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. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

7. [24-90662](#)-B-13 ANA/GRANT JOHNSON
[LGT](#)-1 Ryan Keenan

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
12-20-24 [[15](#)]

Final Ruling

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

The court's decision is to overrule the objection as moot.

Subsequent to the filing of the Chapter 13 Trustee's objection, the Debtors filed an amended plan on January 15, 2025. The confirmation hearing for the amended plan must still be scheduled. Nonetheless, this deems the earlier plan filed November 4, 2024, not confirmable.

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

The court will issue an order.

8. [24-90671](#)-B-13 KC/JENNIFER NICOL
[KSH](#)-1 Eric V. Wood

OBJECTION TO CONFIRMATION OF
PLAN BY U.S. BANK N.A.
12-26-24 [[13](#)]

WITHDRAWN BY M.P.

Final Ruling

U.S. Bank N.A. having filed a notice of withdrawal 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.

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

The court will issue an order.

9. [24-90776](#)-B-13 JELINA NICHOLAS
[ADR](#)-1 Pro Se

MOTION FOR RELIEF FROM
AUTOMATIC STAY
1-6-25 [[26](#)]

DENNIS BARRAZA VS.

Final Ruling

The case having been converted to one under chapter 7, 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.