

**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: February 10, 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.

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Modesto, California

February 11, 2025 at 1:00 p.m.

1. [24-90703](#)-B-13 ROBERT/TARRA SUMNER OBJECTION TO CONFIRMATION OF
[KMM](#)-1 Gregory J. Smith PLAN BY CREDITOR MEDALLION BANK
Thru #2 1-15-25 [[23](#)]

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.

Debtors filed an amended plan on January 15, 2025. The confirmation hearing for the amended plan is scheduled for March 4, 2025. The earlier plan filed November 21, 2024, which the objection pertains to, is not confirmed and the objection is overruled as moot.

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

The court will issue an order.

2. [24-90703](#)-B-13 ROBERT/TARRA SUMNER OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Gregory J. Smith PLAN BY LILIAN G. TSANG
1-15-25 [[20](#)]

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.

Debtors filed an amended plan on January 15, 2025. The confirmation hearing for the amended plan is scheduled for March 4, 2025. The earlier plan filed November 21, 2024, which the objection pertains to, is not confirmed and the objection is overruled as moot.

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

The court will issue an order.

February 11, 2025 at 1:00 p.m.

3. [24-90723](#)-B-13 TERESA BATTISTA
[LGT](#)-1 Simran Singh Hundal

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
1-15-25 [[12](#)]

WITHDRAWN BY M.P.

Final Ruling

The Chapter 13 Trustee 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.

4. [24-90724](#)-B-13 ERIC GUTIERREZ
[LGT](#)-1 Simran Singh Hundal

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
1-15-25 [[12](#)]

Final Ruling

The *initial* Chapter 13 Plan filed November 26, 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 February 18, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtor's case was filed on November 26, 2024. The plan opted to comply with Local Bankruptcy Rule 2016-1(c). Therefore, Rights and Responsibilities form EDC 3-096 (Rev. 4/23/2024) needs to be filed. The currently filed Rights and Responsibilities is the outdated 8/29/2023 version.

Second, the Disclosure of Compensation of Attorney for Debtor form filed November 26, 2024, is incorrect. In regard to question 5, the required language of the standard form is missing. The form does not match the standardized form as provided on the court's website.

Third, Section 3.06 lists attorney's fee dividend of \$200.00. The attorney fee dividend will need to be \$208.33 per month to comply with Local Bankr. R. 2016-1(c)(4)(B).

The plan filed November 26, 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 February 14, 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 February 18, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on February 18, 2025, at 1:00 p.m.

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

The court will issue an order.

5. [24-90736](#)-B-13 MARIA GUZMAN OBJECTION TO CONFIRMATION OF
[JCW](#)-1 Flor De Maria A. Tataje PLAN BY ALLY BANK
Thru #7 1-10-25 [[15](#)]

Final Ruling

The *initial* Chapter 13 Plan filed November 29, 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 February 18, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.

First, objecting creditor Ally Bank holds a security interest in a 2020 Kia Rio. The creditor has filed a timely proof of claim in which it asserts \$1,196.81 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.

Second, the court takes judicial notice of the prime rate of interest as published in a leading newspaper. *Bonds, Rates & Credit Markets: Consumer Money Rates*, Wall St. J., February 6, 2025, http://online.wsj.com/mdc/public/page/mdc_bonds.html. The current prime rate is 7.50%. To set the appropriate rate, courts utilizes the "formula approach" of *Till v. SCS Credit Corp.*, 124 S.Ct. 1951 (2004), which takes into consideration the national prime rate and adjusts it for a greater risk of default posed by a debtor. Courts have typically adjusted the interest rate by 1% to 3%. The court finds that an interest rate of 8.50% to be appropriate. If either party disputes the interest rate, it may request an evidentiary hearing in either the subsequent motion to confirm or any opposition/objection thereto. The request shall appear in the caption of the document in which it is made. If an evidentiary hearing is requested, the document(s) shall also identify the interest rate expert(s). The court may also appoint its own interest rate expert, Fed. R. Evid. 706(a), and if it does it may allocate the expert's compensation among the parties as appropriate. Fed. R. Evid. 706(c). All parties, attorneys, and witnesses will be required to appear in person for the evidentiary hearing. Telephonic and/or video appearances will not be permitted.

The plan filed November 29, 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 February 14, 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 February 18, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on February 18, 2025, at 1:00 p.m.

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

The court will issue an order.

6. [24-90736](#)-B-13 MARIA GUZMAN OBJECTION TO DEBTOR'S CLAIM OF
[LGT](#)-1 Flor De Maria A. Tataje EXEMPTIONS
1-10-25 [[19](#)]

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.

Debtor's Schedule C utilizes C.C.P. § 704.730 to claim exempt \$300,000.00 in Debtor's residence. Debtor has testified that the home was purchased in March 2021. Debtor's case was filed on November 29, 2024. Since the mortgage debt was incurred within 1215 days of filing, the \$300,000.00 exemption is improper as it exceeds the allowable amount of \$189,050.00 for a mortgage debt incurred within 1215 days of filing. Until Debtor files an amended Schedule C, it cannot be determined if the plan meets the liquidation test of 11 U.S.C. § 1325(a)(4).

The Trustee's objection is sustained.

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

The court will issue an order.

7. [24-90736](#)-B-13 MARIA GUZMAN OBJECTION TO CONFIRMATION OF
[NLG](#)-1 Flor De Maria A. Tataje PLAN BY LAKEVIEW LOAN
SERVICING, LLC
1-10-25 [[22](#)]

Final Ruling

The *initial* Chapter 13 Plan filed November 29, 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 February 18, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

Objecting creditor Lakeview Loan Servicing, LLC holds a security interest in a real property located at 401 Bobolink Ave, Newman, California. The creditor has filed a timely proof of claim in which it asserts \$31,874.39 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 29, 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 February 14, 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 February 18, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on February 18, 2025, at 1:00 p.m.

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

The court will issue an order.

8. [24-90747](#)-B-13 JASON CLARK
[LGT](#)-1 Joshua Sternberg

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
1-13-25 [[18](#)]

Final Ruling

The *initial* Chapter 13 Plan filed December 17, 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 February 18, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

Debtor's Schedule I indicates that Debtor is not employed, and the only source of income is a \$4,600.00 contribution from a girlfriend. The Chapter 13 Trustee has requested a declaration from the girlfriend attesting to her ability and willingness to make the monthly contribution through the plan term. Without a declaration from the girlfriend, it cannot be determined whether Debtor's plan is feasible. 11 U.S.C. § 1325(a)(6).

The plan filed December 17, 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 February 14, 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 February 18, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on February 18, 2025, at 1:00 p.m.

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

The court will issue an order.

Final Ruling

The *initial* Chapter 13 Plan filed November 19, 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 February 18, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtor must provide the pay advices of her non-filing spouse for the entire 6-month period prior to filing. Until that information is provided, it cannot be determined whether the plan provides that all of Debtor's 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).

Second, Section 3.02 of the plan provides that the Proof of Claim, not this plan or the schedules, shall determine the amount and classification of a claim unless the court's disposition of a claim objection, valuation motion, or lien avoidance motion affects the amount or classification of the claim. Accordingly, the language in Section 7.02 of the plan shall be stricken, and Debtor shall file an objection to any proof of claims filed for the non-filing spouse's debt if no disbursements are to be made to these claims.

The plan filed November 19, 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 February 14, 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 February 18, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on February 18, 2025, at 1:00 p.m.

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

The court will issue an order.

10. [24-90684](#)-B-13 FRANCISCO MARTINEZ CONTINUED OBJECTION TO
[LGT](#)-1 David C. Johnston CONFIRMATION OF PLAN BY LILIAN
G. TSANG
1-6-25 [[20](#)]

CONTINUED TO 3/11/25 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS
SET FOR 3/06/25.

Final Ruling

No appearance at the February 11, 2025, hearing is required. The court will issue an
order.