

**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: 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.

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

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

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1. [20-21219](#)-B-13 LEONARD/RHONDA HENDRICKS MOTION TO AUTHORIZE CASHING
[DEF](#)-5 David Foyil CHECK
1-14-25 [[71](#)]

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 to authorize cashing of check.

Joint Debtor Rhonda Hendricks ("Joint Debtor") assisted her son Christopher Hendricks ("Christopher") in May 2006 to secure financing due to the latter's insufficient credit to purchase a 2001 Chrysler PT Cruiser ("Vehicle"). Both names were on the loan as co-signers but Christopher made all payments, including the deposit, and was the sole user of the Vehicle. A year after its purchase, the Vehicle experienced significant mechanical issues, leading Christopher to surrender the Vehicle.

On November 14, 2023, Debtors received a letter from the Chapter 13 Trustee indicating receipt of a check for \$6,200.71 as a gap insurance payout related to the Vehicle. On March 7, 2024, Christopher received the Wells Fargo check that was jointly payable to himself and Joint Debtor. Christopher subsequently obtained a payment history from Wells Fargo on April 2, 2024, confirming that he solely made all payments related to the vehicle and its insurance.

Debtors contend that this bankruptcy estate only holds a legal interest, and not an equitable interest, in the Vehicle, and request the court to authorize the cashing of the check and to permit the funds to be fully distributed to Christopher Hendricks since he made all financial contributions and insurance obligations toward the Vehicle.

The court finds Debtors request valid and authorizes the cashing of the \$6,200.71 Wells Fargo check to be distributed in its entirety to Christopher Hendricks.

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

The court will issue an order.

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

2. [24-25433](#)-B-13 JESUS PALOFAX AND OBJECTION TO CONFIRMATION OF
[LGT](#)-1 CASSANDRA PALAFOX PLAN BY LILIAN G. TSANG
Flor De Maria A. Tataje 1-15-25 [[19](#)]

Final Ruling

The *initial* Chapter 13 Plan filed November 30, 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.**

Debtors filed amended Schedules I and J on January 16, 2025. An attachment to Schedule I for line 8a has been included and the 2023 taxes on line 16 have been removed. However, many other expenses were increased, resulting in a line 23c monthly net income of \$1,870.52. However, the proposed plan payment is \$2,155.00 and is not feasible.

The plan filed November 30, 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 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 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.

3. [24-23446](#)-B-13 JOHN/JOY CONKLIN
[CDL](#)-1 Colby D. LaVelle

MOTION TO CONFIRM PLAN
12-14-24 [[31](#)]

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.

4. [24-25649](#)-B-13 RODERICK SINGLETON
[KLG](#)-2 Arete Kostopoulos

MOTION TO CONFIRM PLAN
12-31-24 [[22](#)]

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). Oppositions were 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 amended plan.

Objecting creditor U.S. Bank, NA, Solely as Legal Title Trustee of the Truman 2016 SC6 Title Trust, holds a security interest in a real property located at 6804 Vilamoura Way, Elk Grove, California. The creditor has filed a timely proof of claim in which it asserts \$124,643.78 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 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.

5. [24-20853](#)-B-7 MELANIE/SHANE BRITT MOTION FOR RELIEF FROM
 [EAT](#)-1 Peter G. Macaluso AUTOMATIC STAY
 1-14-25 [[119](#)]

MIDFIRST BANK VS.
CASE DISMISSED: 01/29/25

Final Ruling

The chapter 13 case having been dismissed on January 29, 2025, 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. [24-25474](#)-B-13 WALTER JEFFERSON
[LGT](#)-1 Gregory J. Smith

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
1-15-25 [[19](#)]

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)(2) 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 December 4, 2024, 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 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. [24-22675](#)-B-13 RATTANA POK
[RMP](#)-2 G. Michael Williams

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR RELIEF FROM CO-DEBTOR STAY
12-30-24 [[46](#)]

REAL TIME RESOLUTIONS, INC.
VS.

Final Ruling

The case having been dismissed on January 30, 2025, the motion for relief from automatic stay pursuant to 11 U.S.C. § 362(d)(1) is denied as moot.

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

The court will issue an order.

8. [24-25490](#)-B-13 BEE DAVIS
[GEL](#)-2 Gabriel E. Liberman

MOTION TO CONFIRM PLAN
1-6-25 [[31](#)]

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 plan provides for payments to creditors for a period longer than 5 years. 11 U.S.C. §1322(d). Based on the claims currently filed, the plan will take 85.78 months to fund. According to the Debtor's testimony at the 341 meeting of creditors held on January 09, 2025, she anticipates that the priority claims will be amended and reduced. However, until either an objection to claim is filed and order is issued, or the priority claims are amended, the plan is not mathematically feasible. The Chapter 13 Trustee's calculations indicate that the Debtor's plan payment will need to be at least \$12,879.54 per month for the plan term of 60 months to be feasible.

Second, the Disclosure of Compensation of Attorney for Debtor form filed December 04, 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 Eastern District of California Court's website.

Third, Debtor testified at the meeting of creditors that her permanent employment is with IBM. IBM is currently listed as a contract job. Debtor's Schedule I should be amended to reflect that IBM is her permanent employment and should reflect the gross income and deductions.

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.

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 second amended plan.

First, the plan does not provide for all of Debtors' projected disposable income to be applied to unsecured creditors under the plan. 11 U.S.C. § 1325(b)(1)(B). Debtors' second amended plan proposes to pay a dividend of 44% to the unsecured creditors. However, based on Debtors' available disposable income, a 46.49% dividend is required.

Second, Section 3.06 of the plan provides that \$2,500.00 was paid to Debtors' counsel prior to filing and \$5,000.00 is to be paid through the plan. Based on these amounts, Debtors' counsel took more than 25% of the total fees prior to filing, which is not permitted under Local Bankr. R. 2016-1(c). Debtors' declaration filed in support of this motion to confirm states that Debtors expect a refund of \$625.00 in order to meet the 25% total. Proof that the refund has been received by Debtors is required; this may be submitted as a declaration by Debtors.

The second 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.

10. [24-25093](#)-B-13 BRIAN/LEIGH MORPHIS
[LGT](#)-2 Julius J. Cherry

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
1-13-25 [[18](#)]

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.

The court will issue an order.

11. [24-25217](#)-B-13 ROSSLYN CARRISOSA
[LGT](#)-1 Julius J. Cherry

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY LILIAN
G. TSANG
1-7-25 [[13](#)]

Final Ruling

This matter was continued from February 4, 2025, to allow any party in interest to file a response by 5:00 p.m. Friday, February 7, 2025. Nothing was filed. Therefore, the court's conditional ruling at *dk.* 16, sustaining the objection, shall become the court's final decision. The continued hearing on February 11, 2025, at 1:00 p.m. is vacated.

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

The court will issue an order.

12. [24-25361](#)-B-13 CECIL/VERONICA RHODES CONTINUED MOTION TO CONFIRM
[DB-1](#) Galen M. Gentry PLAN
12-23-24 [[29](#)]

CONTINUED TO 2/25/25 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS
SET FOR 2/20/25.

Final Ruling

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

13. [24-25690](#)-B-13 RAYLA NEELEY CONTINUED MOTION TO AVOID LIEN
MS-1 Mark Shmorgon OF CITIBANK, N.A.
Thru #14 1-18-25 [[25](#)]

Final Ruling

This matter was continued from February 4, 2024, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, February 7, 2024. Nothing was filed. Therefore, the court's conditional ruling at dkt. 35, granting the motion to avoid judicial lien, shall become the court's final decision. The continued hearing on February 11, 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.

14. [24-25690](#)-B-13 RAYLA NEELEY CONTINUED MOTION TO AVOID LIEN
MS-2 Mark Shmorgon OF CITIBANK, N.A.
1-18-25 [[30](#)]

Final Ruling

This matter was continued from February 4, 2024, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, February 7, 2024. Nothing was filed. Therefore, the court's conditional ruling at dkt. 36, granting the motion to avoid judicial lien, shall become the court's final decision. The continued hearing on February 11, 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.