

**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 20, 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.

Eastern District of California

February 20, 2024 at 1:00 p.m.

ALLY BANK VS.
WITHDRAWN BY M.P.

Final Ruling

Ally Bank having filed a notice of withdrawal of its motion, the motion 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 motion is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

2. [23-90576](#)-B-13 GURMAIL SINGH AND KULDEEP OBJECTION TO CONFIRMATION OF
[DCF](#)-1 KAUR PLAN BY GUARANTY SOLUTIONS
Thru #4 David C. Johnston RECOVERY FUND 1, LLC
2-6-24 [[32](#)]

Final Ruling

The *initial* Chapter 13 Plan filed December 18, 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 overrule the objection as moot but deny confirmation of the plan for reasons stated at Item #4, LGT-1.

The plan filed December 18, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a), and is not confirmed.

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

The court will issue an order.

3. [23-90576](#)-B-13 GURMAIL SINGH AND KULDEEP OBJECTION TO CONFIRMATION OF
[EAT](#)-1 KAUR PLAN BY CARRINGTON MORTGAGE
David C. Johnston SERVICES, LLC
1-19-24 [[22](#)]

Final Ruling

The *initial* Chapter 13 Plan filed December 18, 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 overrule the objection as moot but deny confirmation of the plan for reasons stated at Item #4, LGT-1.

The plan filed December 18, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a), and is not confirmed.

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

The court will issue an order.

4. [23-90576](#)-B-13 GURMAIL SINGH AND KULDEEP OBJECTION TO CONFIRMATION OF
[LGT](#)-1 KAUR PLAN BY LILIAN G. TSANG
David C. Johnston 1-31-24 [[27](#)]

Final Ruling

The *initial* Chapter 13 Plan filed December 18, 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 February 27, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

February 20, 2024 at 1:00 p.m.

First, Debtors has failed to provide the Chapter 13 Trustee with business documents including six months of profit and loss statements and copies of Debtors' liability riders and workers' compensation riders, if applicable, for Debtors' business. 11 U.S.C. § 521(e) (2) (A); Fed. R. Bankr. P. 4002(b) (3). These are required 7 days before the date set for the first meeting of creditors. 11 U.S.C. § 521(e) (2) (A) (I).

Second, Debtors' plan fails the liquidation test of 11 U.S.C. § 1325(a) (4). Debtors' schedules list non-exempt assets totaling \$25,274.00 and unsecured priority claims totaling \$1,974.00. Accordingly, there are non-exempt assets available for distribution to Debtors' general unsecured creditors of \$23,300.00 (\$25,274.00 minus \$1,974.00). Based on a review and analysis of Debtors' schedules, Debtors have non-priority general unsecured claims totaling \$702,230.00. In order to meet the liquidation test of 11 U.S.C. § 1325(a) (4), Debtors' plan must pay 3.32% to Debtors' general unsecured creditors. Debtors' plan only provides for 1.00% dividend to general unsecured creditors. Accordingly, Debtors' plan fails the liquidation test.

Third, feasibility depends on the Debtors filing and the court granting a motion to value collateral of TD Auto Finance. To date, no motion to value has been filed by the Debtors. 11 U.S.C. § 1325(a) (6).

Fourth, the attachment to Schedule I, which provides for Debtors' business income and expenses, needs to be filed. Without this document, it cannot be determined whether Debtors' plan is feasible and pays all projected disposable income for the applicable commitment period to general unsecured creditors. 11 U.S.C. § 1325(a) (6).

Fifth, Debtors' plan provides for payment to Carrington Mortgage Services, Inc. for the property located at 4590 N. Berkeley Avenue, Turlock, California, as a Class 4 claim with a monthly installment of \$1,530.00. The claim of Carrington Mortgage Services, Inc. is misclassified as a Class 4 claim and should be classified as a Class 1 claim in the plan since the secured claim matures after the completion of the plan and has pre-petition mortgage arrears that need to be cured.

Sixth, Debtors' plan proposes to increase the dividend to general unsecured claims in Section 3.14 to 47%, payable in month 60, if the Debtors are successful in recovering the real property at 14199 Bradbury Road, Delhi, California, which they contend was improperly foreclosed. However, Debtors testified that no legal efforts have been made in connection with recovery of the property. Therefore, the proposed recovery and lump sum payment are highly speculative. 11 U.S.C. § 1325(a) (6).

Seventh, without copies of Debtors' bank statements, both personal and business, for the six months preceding the filing of this case, it cannot be determined whether the plan is feasible. 11 U.S.C. § 1325(a) (6).

Eighth, Debtors' Form 122C-1 lists Debtors' net income from a business as \$5,000.00 per month. A detailed month by month analysis is needed to determine how this figure was computed. Until the Trustee receives this detailed month-by-month analysis, it cannot be determined whether the plan provides that all of Debtors projected disposable income received in the applicable commitment period will be applied to make payments to unsecured creditors. 11 U.S.C. § 1325(b).

Ninth, Debtors' plan is not proposed in good faith under 11 U.S.C. § 1325(a) (3). Debtors' Schedule A/B fails to list Debtors' business bank accounts. Additionally, Schedule C exempts an amount of \$20,000.00 for Household Goods and Furnishings, which may not qualify as "ordinarily and reasonably necessary" under California Code of Civil Procedure § 704.020.

The plan filed December 18, 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 February 23, 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 February 27, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on February 27, 2024, at 1:00 p.m.

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

The court will issue an order.