

**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 27, 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

February 27, 2024 at 1:00 p.m.

1. [23-23808](#)-B-13 KATHY KENOLY MOTION TO DISMISS CASE
 [LGT-2](#) Pro Se 2-12-24 [[35](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

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 **conditionally grant the motion to convert the case and continue the matter to March 5, 2024, at 1:00 p.m.**

First, the Debtor is delinquent in the sum of \$3,884.76. The last payment was received on November 27, 2023. 11 U.S.C. § 1307(c)(4).

Second, the Chapter 13 Trustee's objection to confirmation was sustained on January 16, 2024. The Debtor has failed to file, set, and serve an amended plan in this case. Debtor's failure to fulfill her duties is an unreasonable delay that is prejudicial to creditors who are delayed in receiving payments. 11 U.S.C. § 1307(c)(1).

Third, a review of Debtor's Schedules A/B, C and D shows that Debtor has non-exempt equity in real and personal property. Should the Debtor choose to amend Schedule C, there would remain non-exempt equity that may be available for the benefit of unsecured creditors.

Cause exists to convert this case. The motion is conditionally granted and the case will be converted.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, March 2, 2024, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted 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 March 5, 2024, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on March 5, 2024, at 1:00 p.m.

February 27, 2024 at 1:00 p.m.
Page 1 of 9

2. [23-24327](#)-B-13 LUIS IBARRA ORDER TO SHOW CAUSE - FAILURE
Thru #3 Hank W. Walth TO PAY FEES
2-5-24 [[30](#)]

Final Ruling

The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor/s to pay the filing fee in installments.

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$78.00 installment when due on January 30, 2024. While the delinquent installment was paid on February 15, 2024, the fact remains that the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

IT IS FURTHER ORDERED that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The court will issue an order.

3. [23-24327](#)-B-13 LUIS IBARRA MOTION TO DISMISS CASE
LGT-1 Hank W. Walth 2-12-24 [[32](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

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 deny the motion to dismiss case.

The Chapter 13 Trustee moves to dismiss this case on grounds that the Debtor is delinquent in plan payments and has not filed, set, and served a motion to confirm plan.

The Debtor filed a response stating that he has set a confirmation hearing for April 2, 2024, and that he has paid the first plan payment. This resolves the basis for dismissing the case at this time.

Cause does not exist to dismiss this case. The motion is denied.

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

The court will issue an order.

4. [23-24050](#)-B-13 MOHAMMED MARASHI
SHOOSHTARI
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
1-17-24 [[43](#)]

DEBTOR DISMISSED: 01/26/24

Final Ruling

The case having been dismissed on January 26, 2024, the order to show cause is overruled as moot.

The order to show cause is ORDERED OVERRULED AS MOOT for reason stated in the minutes.

The court will issue an order.

5. [23-23456](#)-B-13 GERARDO MEDEL
[LGT-1](#) Hank W. Walth

MOTION TO DISMISS CASE
2-12-24 [[49](#)]

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

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 deny the motion to dismiss case.

The Chapter 13 Trustee moves to dismiss this case on grounds that the Debtor is delinquent in plan payments and has not filed, set, and served a motion to confirm plan.

The Debtor filed a response stating that he has filed a second amended plan and set a confirmation hearing date for April 2, 2024. This resolves the basis for dismissing the case at this time.

Cause does not exist to dismiss this case. The motion is denied.

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

The court will issue an order.

6. [23-24493](#)-B-13 MELANIE/SHANE BRITT
Peter G. Macaluso

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
1-19-24 [[31](#)]

Final Ruling

The court's decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtors' failure to pay \$79.00 due January 16, 2024. The court's docket reflects that the default has not been cured.

The order to show cause is ORDERED SUSTAINED for reasons stated in the minutes and the case is DISMISSED.

The court will issue an order.

7. [20-22226](#)-B-13 DEREK NEWTON CONTINUED OBJECTION TO CLAIM OF
[LGT-1](#) Peter G. Macaluso SALLIE MAE BANK, CLAIM NUMBER
Thru #8 12-1
1-11-24 [[35](#)]

Final Ruling

This matter was continued from February 20, 2024, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, February 23, 2024. Nothing was filed. Therefore, the court's conditional ruling at dkt. 41, sustaining the objection to claim, shall become the court's final decision. The continued hearing on February 27, 2024, at 1:00 p.m. is vacated.

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

The court will issue an order.

8. [20-22226](#)-B-13 DEREK NEWTON CONTINUED OBJECTION TO CLAIM OF
[LGT-2](#) Peter G. Macaluso SALLIE MAE BANK, CLAIM NUMBER
13-1
1-11-24 [[38](#)]

Final Ruling

This matter was continued from February 20, 2024, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, February 23, 2024. Nothing was filed. Therefore, the court's conditional ruling at dkt. 42, sustaining the objection to claim, shall become the court's final decision. The continued hearing on February 27, 2024, at 1:00 p.m. is vacated.

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

The court will issue an order.

9. [23-24536](#)-B-13 FRANK/KRISTEN VAN KEMPEN CONTINUED OBJECTION TO
[LGT-1](#) Michael Benavides CONFIRMATION OF PLAN BY LILIAN
Thru #10 G. TSANG
1-29-24 [[26](#)]

Final Ruling

The court entered an order on February 26, 2024, granting debtors Frank Van Kempen and Kristen Van Kempen's motion to voluntarily dismiss case.

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.

10. [23-24536](#)-B-13 FRANK/KRISTEN VAN KEMPEN CONTINUED OBJECTION TO
[PA-1](#) Michael Benavides CONFIRMATION OF PLAN BY
DINWIDDIE-HINES CONSTRUCTION,
INC.
2-1-24 [[41](#)]

Final Ruling

The court entered an order on February 26, 2024, granting debtors Frank Van Kempen and Kristen Van Kempen's motion to voluntarily dismiss case.

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.

11. [23-24359](#)-B-13 MARLON PAMPLONA AND DIANA CONTINUED OBJECTION TO
[LGT](#)-1 AVILES-PAMPLONA CONFIRMATION OF PLAN BY LILIAN
Eric L. Seyvertsen G. TSANG
1-30-24 [[18](#)]

Final Ruling

This matter was continued from February 20, 2024, to allow any party in interest to file a response by 5:00 p.m. Friday, February 23, 2024. Nothing was filed. Therefore, the court's conditional ruling at dkt. 23, sustaining the objection, shall become the court's final decision. The continued hearing on February 27, 2024, 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. [23-24398](#)-B-13 RICARDO BENAVIDES
[LGT-1](#) Pro Se

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY LILIAN
G. TSANG
1-29-24 [[22](#)]

Final Ruling

This matter was continued from February 20, 2024, to allow any party in interest to file a response by 5:00 p.m. Friday, February 23, 2024. Debtor Ricardo Benavides ("Debtor") filed a timely response providing an explanation to some of the issues raised by the Chapter 13 Trustee. The Debtor also filed a first amended plan on February 23, 2024. However, the Debtor has not yet filed, set, and served a motion to confirm the first amended plan or set a confirmation hearing date. The court cannot confirm an amended plan that has not been properly set for confirmation hearing and properly noticed to interested parties.

That being said, given that a first amended plan was filed, the objection to confirmation of the plan filed December 22, 2023, is conditionally overruled as moot as stated below. The continued hearing on February 27, 2024, at 1:00 p.m. is vacated.

The Debtor shall file a motion to confirm the first amended plan, set a confirmation hearing date, and serve the motion all as required by the applicable Bankruptcy and Local Rules by **March 5, 2024**, or this case may be dismissed on the Chapter 13 Trustee's *ex parte* application.

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

The court will issue an order.