

**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: March 4, 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

March 4, 2025 at 1:00 p.m.

1. [24-90703](#)-B-13 ROBERT/TARRA SUMNER MOTION TO CONFIRM PLAN
[JCK](#)-1 Gregory J. Smith 1-15-25 [[15](#)]

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 conditionally confirm the first amended plan.

The Chapter 13 Trustee objects to confirmation of the plan on grounds that Debtors will not be able to make the increased payment of \$7,551.00 in month 43 based on their monthly net income of \$6,801.00 on Schedule J. Additionally, 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), and the average monthly plan payment needed is \$7,411.05 due to the "stepped" nature of the plan payments.

Debtors filed a response stating that, as discussed at the first meeting of creditors, Debtors' \$750.00 barn lease ends in month 42, which will allow them to thereafter increase monthly plan payments.

Provided that an amended Schedule J and amended Form 122C-2 are filed, the amended plan will be deemed to comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and will be confirmed.

The motion is ORDERED CONDITIONALLY 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.

March 4, 2025 at 1:00 p.m.

2. [24-90205](#)-B-13 THERESA/GUADALUPE SOLIS MOTION TO CONFIRM PLAN
[DSH](#)-3 David S. Henshaw 1-21-25 [[68](#)]

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 third amended plan.

First, the plan provides for payments to creditors for a period longer than 5 years. [11 U.S.C. § 1322(d). The Chapter 13 Trustee's calculations indicate that in order to pay 100% plus federal post-judgment interest to nonpriority unsecured claims, Debtors' average plan payment would need to be at least \$4,135.88. Based on the proposed plan, it will take 65.71 months to pay off.

Second, the Disclosure of Compensation of Attorney for Debtor form filed April 18, 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.

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.

3. [24-90819](#)-B-13 JINELLE PREJEAN
[AP-1](#) Simran Singh Hundal

OBJECTION TO CONFIRMATION OF
PLAN BY JPMORGAN CHASE BANK,
NATIONAL ASSOCIATION
1-21-25 [[12](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankr. R. 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankr. R. 9014-1(f)(1)(C).

The court's decision is to overrule the objection and confirm the plan.

Objecting creditor JPMorgan Chase Bank, National Association holds a deed of trust secured by the Debtor's residence. The creditor asserts \$31,057.87 in pre-petition arrearages but has not yet filed a proof of claim. Although the creditor states that it will file a proof of claim prior to the claims bar deadline, the creditor provides no evidence to support the basis for the claimed pre-petition arrears. The creditor does not provide a declaration from any individual who maintains or controls the bank's loan records or any other supporting evidence. Without a proof of claim or evidence to support its assertion, the creditor's objection is overruled.

The plan complies with 11 U.S.C. §§ 1322 and 1325(a). The objection is overruled and the plan filed December 30, 2024, is confirmed.

The objection is ORDERED OVERRULED 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.

4. [24-90820](#)-B-13 RICHARD/LINDA ORTIZ
[LGT](#)-1 Simran Singh Hundal

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
2-6-25 [[12](#)]

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.

There being no other objection to confirmation, the plan filed December 30, 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.

5. [24-90445](#)-B-13 GONZALO/LUCILA PALOMINOS MOTION FOR RELIEF FROM
[NLG](#)-1 Ryan Keenan AUTOMATIC STAY AND/OR MOTION
LAKEVIEW LOAN SERVICING, LLC FOR RELIEF FROM CO-DEBTOR STAY
VS. 1-31-25 [[61](#)]

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 in part the motion for relief from automatic stay.

Lakeview Loan Servicing, LLC ("Movant") seeks relief from the automatic stay with respect to real property commonly known as 1308 Sideboard Drive, Josephine, Texas (the "Property"). Movant has provided the Declaration of Linda Brown to introduce into evidence the documents upon which it bases the claim and the obligation secured by the Property.

The Brown Declaration states that there are four post-petition payments in default totaling \$9,633.24.

From the evidence provided to the court, and only for purposes of this motion, the total debt secured by this Property is determined to be \$269,368.21 as stated in the Brown Declaration. The value of the Property is determined to be \$250,000.00 as stated in Schedules A/B and D filed by Debtors.

Discussion

The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay, including defaults in post-petition payments which have come due. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Additionally, once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates. Ltd.*, 484 U.S. 365, 375-76 (1988); 11 U.S.C. § 362(g)(2). Based upon the evidence submitted, it appears that there is no equity in the Property. Moreover, the Debtor has failed to establish that the Property is necessary to an effective reorganization. *First Yorkshire Holdings, Inc. v. Pacifica L 22, LLC (In re First Yorkshire Holdings, Inc.)*, 470 B.R. 864, 870 (Bankr. 9th Cir. 2012).

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, and all other creditors having lien rights against the Property, to conduct a nonjudicial foreclosure sale pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, at the nonjudicial foreclosure sale to obtain possession of the Property.

The request for relief from stay as to the co-Debtor stay, who is liable on such debt with the Debtors, shall be granted pursuant to 11 U.S.C. §§ 1201(a) or 1301(a).

The 14-day stay of enforcement under Rule 4001(a)(3) is not waived.

March 4, 2025 at 1:00 p.m.

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No other or additional relief is granted by the court.

Attorneys' Fees Requested

Though requested in the motion, Movant has not stated either a contractual or statutory basis for the award of attorneys' fees in connection with this motion. Movant is not awarded any attorneys' fees.

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

The court will issue an order.

6. [24-90757](#)-B-13 JAMES LEGENSKY CONTINUED OBJECTION TO
[LGT](#)-1 Nicholas Wajda CONFIRMATION OF PLAN BY LILIAN
Thru #7 G TSANG
1-27-25 [[18](#)]

Final Ruling

The *initial* Chapter 13 Plan filed December 5, 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 March 11, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

Feasibility depends on the granting of a motion to value collateral of Golden 1 Credit Union. That motion is denied at Item #7, WLJ-1.

The plan 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 March 4, 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 March 11, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on March 11, 2025, at 1:00 p.m.

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

The court will issue an order.

7. [24-90757](#)-B-13 JAMES LEGENSKY MOTION TO VALUE COLLATERAL OF
[WLJ](#)-1 Nicholas Wajda GOLDEN 1 CREDIT UNION
1-24-25 [[13](#)]

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 deny without prejudice the motion to value collateral of Golden 1 Credit Union.

Debtor moves to value the secured claim of Golden 1 Credit Union ("Creditor"). Debtor

is the owner of a Chevrolet Blazer Premier Sport Utility 4D AWD 3.6L V6 ("Vehicle"). The Debtor seeks to value the Vehicle at a replacement value of \$24,933.00 as of the petition filing date. As the owner, Debtor's opinion of value is evidence of the asset's value. See Fed. R. Evid. 701; see also *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

Proof of Claim Filed

The court has reviewed the Claims Registry for this bankruptcy case. Claim No. 7-1 filed by Golden 1 Credit Union is the claim which may be the subject of the present motion.

Discussion

The court finds issue with Debtor's valuation. First, the declaration states that the valuation of the Vehicle is based on a Kelley Blue Book printout but this is a third-party industry source and, therefore, Debtor's opinion of value is based on hearsay. Fed R. Evid. 801-803; see also *In re Guerra*, 2008 WL 3200931, *2 n.4 (Bankr. E.D. Cal. 2008) ("Filed with Guerra's declaration was an unauthenticated document titled: 'Edmonds.com True Market Value Pricing Report.' The court has not considered this attachment in that it is inadmissible hearsay[.]"). Second, Debtor's exhibits show that consideration is given to a "private party" value. This is the value in which a private party, who is not a retailer, could buy or sell a car. The standard here must be a retail valuation, taking into account the condition of the car. See 11 U.S.C. § 506(a).

In the Chapter 13 context, the replacement value of personal property used by debtors for personal, household or family purposes is "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." See 11 U.S.C. § 506(a)(2). The time value is determined is the date of filing of the petition without deduction for costs of sale or marketing. *Id.*

The Debtor has not persuaded the court regarding his position for the value of the Vehicle. The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a) is denied without prejudice.

The motion is ORDERED DENIED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

8. [24-90699](#)-B-13 JAMI WATSON
[LGT](#)-1 David C. Johnston

CONTINUED MOTION TO DISMISS
CASE
2-7-25 [[34](#)]

Final Ruling

This matter was continued from February 25, 2025, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, February 28, 2025. Debtor filed a timely response and the Chapter 13 Trustee filed a notice of withdrawal.

Given the aforementioned, the court's conditional ruling at dkt. 39 and the continued hearing on March 4, 2025, at 1:00 p.m. are vacated. The motion to dismiss case is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2).

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

The court will issue an order.