

**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 8, 2022**

**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 8, 2022 at 1:00 p.m.**

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1. [21-90418](#)-B-13 MIGUEL TERRIQUEZ OBJECTION TO CONFIRMATION OF  
RJ-1 Richard L. Jare PLAN BY GRISELDA SOLORZANO  
**Thru #2** 2-14-22 [[126](#)]

**Final Ruling**

The objection 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). 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 Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the objection. 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 overrule the objection as moot.

The court denied confirmation of Debtor's modified plan at Item 2, RMP-2. The plan filed February 2, 2022, does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

The plan filed February 2, 2022, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

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

The court will issue an order.

2. [21-90418](#)-B-13 MIGUEL TERRIQUEZ OBJECTION TO CONFIRMATION OF  
[RMP-2](#) Richard L. Jare PLAN BY REAL TIME RESOLUTIONS,  
INC.  
2-3-22 [[115](#)]

**Final Ruling**

The objection 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). 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 Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R.

**March 8, 2022 at 1:00 p.m.**

9014-1(f)(2)(C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the objection. 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 sustain the objection and deny confirmation of the plan.

First, Creditor Real Time Resolutions, Inc. ("Creditor") objects to confirmation of Debtor's plan on grounds that Debtor's plan only provides for payment of Creditor's pre-petition arrears from sales proceeds. However, Debtor's plan fails to provide for Creditor's remaining total pre-petition claim, unpaid post-petition installment payments or any other post-petition fees or costs. Debtor fails to provide for full payment to Creditor for the amount due and owing on Creditor's loan on the date escrow closes.

Second, Creditor holds a deed of trust secured by the Debtor's residence. Creditor has filed a timely proof of claim in which it asserts \$33,865.16 in pre-petition arrearages. Creditor opposes confirmation on grounds that the plan does not provide for cure in full of Creditor's secured claim for pre-petition arrears, and delays payment of pre-petition arrears until Debtor's residence is sold. Debtor's plan is largely funded by a sale or refinancing of the Property. The problem is, there is no evidence that a sale is imminent. For example, there is no indication that the Debtor has contacted a realtor, placed the home on the market, or had any contact with any potential buyers. Given the significant dispute over ownership of and interests in the subject property, a sale within the time frame proposed is not likely. The proposed sale is therefore speculative, which means the plan is not feasible. Consequently, the plan fails to satisfy 11 U.S.C. § 1325(a)(6). See *In re Gavia*, 24 B.R. 573, 574 (9th Cir. BAP 1982); see also *In re Colosi*, 2018 WL 2972342 at \*6 (Bankr. D. N.J. June 8, 2018) ("In a situation where a debtor's ability to make payments under the proposed Chapter 13 plan relies on the refinancing of assets or the selling of properties, a court should deny confirmation when it considers the contingency too speculative."); *In re Werden*, 2000 WL 33679431 at \*4 (Bankr. D. N.H. Feb. 8, 2000) ("Numerous courts have held that a Chapter 13 plan is not feasible when it envisions the sale or refinancing of significant property sometime in the future when such a sale or refinancing appears highly speculative.").

Third, Debtor's plan relies on a speculative sale of Debtor's residence. However, Debtor has demonstrated a refusal to cooperate with Griselda Solorzano, the co-borrower of the loans relating to his residence, in order to sell the property. Debtor has an ongoing dispute with Ms. Solorzano over distribution of sales proceeds, which will indefinitely prevent payment from sales proceeds to any and all creditors.

The plan filed February 2, 2022, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

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

The court will issue an order.

3. [17-90447](#)-B-13 DONNELLE MC GEE  
[RAS](#)-1 Steven S. Altman

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
2-9-22 [[41](#)]

BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A. VS.

### **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 deny the motion without prejudice and continue the matter to March 15, 2022 at 1:00 p.m.**

Local Bankr. R. 4001-1(a)(3) provides that with all motions for relief from stay, the movant shall file and serve as a separate document completed Form EDC 3-468, Relief from Stay Summary Sheet. Bank of New York Mellon Trust Company, N.A. did not file the required form with its motion. Therefore, the motion is denied without prejudice.

### **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 11, 2022, 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 15, 2022, 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 15, 2022, at 1:00 p.m.

4. [20-90776](#)-B-13 MONIQUE PULIDO  
[MP-2](#) Pro Se

MOTION TO MODIFY PLAN  
1-19-22 [[23](#)]

### **Final Ruling**

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). 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 permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtor has filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

5. [20-90680](#)-B-13 ALVARO/JAZMIN HERNANDEZ  
[RDG-1](#) T. Mark O'Toole  
OBJECTION TO CLAIM OF  
DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE, CLAIM  
NUMBER 6-1  
2-2-22 [[105](#)]

### **Final Ruling**

The objection has been set for hearing on at least 30 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(b)(2). When fewer than 44 days' notice of a hearing is given, 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 sustain the objection to Claim No. 6-1 of Department of Treasury - Internal Revenue Service and continue the matter to March 15, 2022, at 1:00 p.m.**

The Chapter 13 Trustee requests that the court disallow the claim of Department of Treasury - Internal Revenue Service ("Creditor"), filed by Debtors in the name of Creditor, Claim No. 6-1. The claim is asserted to be unsecured in the amount of \$12,534.00. The Trustee asserts that pursuant to the Notice of Filed Claims filed October 27, 2021, dkt. 101, the deadline for Debtors to file claims per Local Bankr. R. 3004-1 was December 27, 2021. Dkt. 105 at 1:20-21. The Creditor's claim, filed by Debtors, was filed January 18, 2022.

Debtors have filed a Response to Trustee's Objection at dkt. 108. In their response, Debtors reference that the standing Trustee in Fresno has employed a "Notice of Intention to Pay Additional Claim" in allegedly similar cases. The court appreciates the request by the Debtors' attorney to impose another Chapter 13 Trustee's procedure on the Trustee in this case. However, what the standing Chapter 13 Trustee does in Fresno is not binding on - and may not even be wanted by - the standing Trustee in Modesto. If the Trustee in this case desires to follow a procedure employed by a colleague he is free to make an appropriate motion or otherwise stipulate to do so. He has done neither and, in fact, the claim objection and the absence of a reply agreeing to the proposed notice or otherwise concurring with the Debtors' response is telling.

In short, Modesto is not Fresno and the proof of claim was admittedly filed by the Debtors "90 days past the date the Notice of Filed Claims was filed by the Trustee." Dkt. 108 at 2:1-2. The proof of claim is late. The objection is therefore sustained and the claim of Department of Treasury - Internal Revenue Service, No. 6-1, is disallowed.

### **Conditional Nature of this Ruling**

Because the objection has been filed, set, and served under Local Bankruptcy Rule 3007-1(b)(2), any party in interest shall have until 5:00 p.m. on Friday, March 11, 2022, to file and serve an opposition or other response to the objection. See Local Bankr. R. 3007-1(b)(2). Any opposition or response shall be served on the Chapter 13 Trustee and creditor by facsimile or email.

If no opposition or 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 15, 2022, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the objection on March 15, 2022, at 1:00 p.m.

6. [20-90698](#)-B-13 SYLVIA ZEPEDA OBJECTION TO CLAIM OF SCOLOPAX,  
[SLH](#)-1 Seth L. Hanson LLC, CLAIM NUMBER 15  
2-1-22 [[22](#)]

**Final Ruling**

The objection has been set for hearing on at least 30 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(b)(2). However, there appears to be insufficient service of process on Scolopax, LLC. A review of the proof of service does not show that Debtor served Scolopax, LLC, nor is there any address filed in the proof of service corresponding to Scolopax, LLC. Therefore, the court's decision is to overrule the objection without prejudice.

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

The court will issue an order.

7. [19-90616](#)-B-13 ORLANDO/CHELSEA MOYA MOTION TO INCUR DEBT AND/OR  
[TLC](#)-2 Tamie L. Cummins MOTION TO APPROVE TRANSFER OF  
**Thru #8** 2009 NISSAN MURANO  
2-4-22 [[26](#)]

**Final Ruling**

This matter was continued from March 1, 2022, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, March 4, 2022. Nothing was filed. Therefore, the court's conditional ruling at dkt. 47, granting the motion, shall become the court's final decision. The continued hearing on March 8, 2022, at 1:00 p.m. is vacated.

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

The court will issue an order.

8. [19-90616](#)-B-13 ORLANDO/CHELSEA MOYA MOTION TO INCUR DEBT AND/OR  
[TLC](#)-3 Tamie L. Cummins MOTION TO APPROVE TRANSFER OF  
2008 NISSAN ALTIMA  
2-4-22 [[31](#)]

**Final Ruling**

This matter was continued from March 1, 2022, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, March 4, 2022. Nothing was filed. Therefore, the court's conditional ruling at dkt. 48, granting the motion, shall become the court's final decision. The continued hearing on March 8, 2022, at 1:00 p.m. is vacated.

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

The court will issue an order.