

**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: March 19, 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

March 19, 2024 at 1:00 p.m.

1. [23-22700](#)-B-13 MANUEL GALVAN MOTION TO CONFIRM PLAN
[JLK](#)-1 James L. Keenan 2-2-24 [[42](#)]

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 non-opposition. *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 Debtor has 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. 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.

2. [23-23205](#)-B-13 ANDREW YADEGAR
[LTF](#)-1 Lars Fuller

MOTION TO CONFIRM PLAN
1-30-24 [[36](#)]

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 Debtor has 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. 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.

3. [24-20853](#)-B-13 MELANIE/SHANE BRITT MOTION TO EXTEND AUTOMATIC STAY
[PGM-1](#) Peter G. Macaluso 3-5-24 [[14](#)]

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). The court has also determined that further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). This matter will therefore be decided on the papers.

The court's decision is to deny the motion to extend automatic stay.

Debtors seek to have the automatic stay extended beyond 30 days pursuant to 11 U.S.C. § 362(c)(3). Debtors state that they have each separately filed one previous case within the last 12 months. However, this is inaccurate. The Debtors have filed four bankruptcy cases within the past 12 months:

Case no.	Date filed	Case title	Date dismissed
23-23422	9/29/2023	Shane G. Britt	10/17/2023
23-23704	10/19/2023	Shane G. Britt	11/14/2023
23-24132	11/17/2023	Shane G. Britt	12/05/2023
23-24493	12/15/2023	Melanie R. Britt and Shane G. Britt	3/01/2024

Therefore, the provisions of the automatic stay provided by 11 U.S.C. § 362(c)(3) are inapplicable and the motion to extend the automatic stay are denied.

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

The court will issue an order.

4. [23-24454](#)-B-13 JEROME CHAPEL AND AMIE CONTINUED MOTION TO AMEND
[JCK-1](#) DENNER DEBTOR'S PLAN
Thru #5 Kathleen H. Crist 12-27-23 [[8](#)]

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 amended plan.

Feasibility depends on the granting of a motion to value collateral of Capital One. That motion was denied as moot at Item #5, JCK-2.

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. [23-24454](#)-B-13 JEROME CHAPEL AND AMIE MOTION TO VALUE COLLATERAL OF
[JCK-2](#) DENNER CAPITAL ONE
Kathleen H. Crist 2-5-24 [[28](#)]

Final Ruling

Debtors Jerome Chapel and Amie Denner ("Debtors") move to value the collateral of Capital One. Problem is, Capital One has no collateral to value. Nor does it assert that its claim is secured by any collateral. Its proof of claim, filed as Claim 6-1 on January 17, 2024, is filed as an *unsecured* claim.

Debtors appear to object to the amount of the claim, *i.e.*, assert it should be \$0 not \$293.09. Since the claim is deemed allowed unless and until there is an objection, 11 U.S.C. § 502(a), the proper way to challenge the amount of the claim is through a properly filed and noticed objection to the claim.

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

The court will issue an order.

6. [23-24679](#)-B-13 ERIK LEWELLYN AND OBJECTION TO CONFIRMATION OF
[FWP-1](#) GEONETTE WOODS PLAN BY LV THE BEST COMPANY LLC
Thru #7 Le'Roy Roberson 2-28-24 [[23](#)]

Final Ruling

The *initial* Chapter 13 Plan filed December 30, 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 March 26, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, the plan fails to provide any funding for administrative claims. Debtors have not paid any post-petition rent to landlord LV The Best Company LLC ("Landlord") since the petition date. If a debtor fails to timely pay post-petition rent, the lessor's right to payment becomes an administrative claim for the accrued liability on the unpaid rent. See *Towers v. Chickering & Gregory (In re Pacific-Atlantic Trading Co.)*, 27 F.3d 401, 403-405 (9th Cir. 1994); see also *In re Campbell Wings, Inc.*, 2022 WL 962320 (Bankr. E.D. Cal. March 29, 2022). Landlord asserts an administrative claim for rent owed from and after December 30, 2023, through rejection of lease, which will total at least \$7,698 (January, February, and March). Bankruptcy Code Section 1322(a)(2) requires full payment of administrative claims pursuant to the plan. Here, the plan improperly provides \$0.00 for payment Landlord's administrative claims of at least \$7,698.

Second, Landlord holds a \$5,000 security deposit pursuant to the lease. The plan fails to address this asset or the treatment of Landlord's rights to apply/setoff the security deposit.

Third, the plan provides for rejection of any lease at Section 4.02. However, Debtors' plan does not provide for surrender of the leased premises to Landlord and fails to adequately address disposition of this asset.

The plan filed December 30, 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 March 22, 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 March 26, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on March 26, 2024, at 1:00 p.m.

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

The court will issue an order.

7. [23-24679](#)-B-13 ERIK LEWELLYN AND OBJECTION TO CONFIRMATION OF
[LGT-1](#) GEONETTE WOODS PLAN BY LILIAN G. TSANG
Le'Roy Roberson 2-23-24 [[19](#)]

Final Ruling

The *initial* Chapter 13 Plan filed December 30, 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 March 26, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtors' Form 2030 Disclosure of Compensation of Attorney for Debtors states that the agreed upon fee of \$10,000.00 does not include representation in any judicial lien avoidances and relief from stay actions. This is contradictory to the Rights and Responsibilities signed by Debtors and their attorney, and is required under the scope of representation pursuant to Local Bankr. R. 2017-1(a)(1). The Debtor's plan also fails to state the monthly dividend payable for attorney fees.

Second, Debtors have failed to provide the 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' businesses. 11 U.S.C. § 521(e)(2)(A); Fed. R. Bankr. P. 4002(b)(3). These are required seven days before the date set for the first meeting of creditors. 11 U.S.C. § 521(e)(2)(A)(I).

Third, 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 Debtors' general unsecured creditors. 11 U.S.C. §§ 1325(a)(6), (b)(1).

Fourth, the plan is not mathematically feasible. The monthly payment owed to secured creditors totals \$7,562.68 without Trustee compensation and expense, and with Trustee compensation and expense totals \$8,356.55 per month. Debtors' plan payment is only \$3,983.00 per month. Therefore, the plan is not feasible. 11 U.S.C. § 1325(a)(6).

Fifth, Debtors' Schedule J includes inappropriate expenses for a mortgage and two vehicle installment payments. The secured creditors for these real and personal properties are provided for in the plan. The deductions on Schedule J and inappropriate and the plan is not proposed in good faith. 11 U.S.C. § 1325(a)(3).

Sixth, Debtors' Schedule J evidences net disposable income of \$2,558.00 but Debtors have proposed a monthly plan payment of \$3,983.00. The plan is not feasible. 11 U.S.C. § 1325(a)(6).

The plan filed December 30, 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 March 22, 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 March 26, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on March 26, 2024, at 1:00 p.m.

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

The court will issue an order.

8. [23-21187](#)-B-13 RICKY/CHRISTINA ORTIZ
[MMM](#)-1 Mohammad M. Mokarram
OBJECTION TO CLAIM OF
MERCEDEZ-BENZ VEHICLE TRUST,
CLAIM NUMBER 7
1-26-24 [[36](#)]

Final Ruling

The objection has been set for hearing on at least 44 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(b)(1). The failure of the claimant 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 overrule as moot the objection to Claim No. 7-1 of Mercedes-Benz Vehicle Trust.

Debtors object to the Claim No. 7-1 of Mercedes-Benz Vehicle Trust ("Creditor") that was filed in the amount of \$11,151.12 on May 15, 2023. Creditor has since amended its proof of claim on March 5, 2024. Therefore, the Debtors' objection to Claim No. 7-1 is overruled as moot.

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

The court will issue an order.

9. [24-20094](#)-B-13 ENQUAN HE OBJECTION TO CONFIRMATION OF
[BDC](#)-1 Jonathan N. Vaknin PLAN BY FUZHOU WU AND QUAN ZENG
Thru #10 2-28-24 [[20](#)]

CONTINUED TO 3/26/24 AT 1:00 P.M. AT SACRAMENTO COURTROOM TO BE HEARD AFTER THE
CONTINUED MEETING OF CREDITORS SET FOR 3/20/24.

Final Ruling

No appearance at the March 19, 2024, hearing is required. The court will issue an
order.

10. [24-20094](#)-B-13 ENQUAN HE OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Jonathan N. Vaknin PLAN BY LILIAN G. TSANG
2-29-24 [[23](#)]

CONTINUED TO 3/26/24 AT 1:00 P.M. AT SACRAMENTO COURTROOM TO BE HEARD AFTER THE
CONTINUED MEETING OF CREDITORS SET FOR 3/20/24.

Final Ruling

No appearance at the March 19, 2024, hearing is required. The court will issue an
order.