

**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: April 9, 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**

**April 9, 2024 at 1:00 p.m.**

---

1.     [22-21417](#)-B-13   ERIC HARDY                             MOTION TO MODIFY PLAN  
          [MS-1](#)             Mark Shmorgon                           3-4-24 [44]

**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. 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.

2. [23-23336](#)-B-13 ALFRED/DAWN RIBEIRO  
[CRG-3](#) Carl R. Gustafson

OBJECTION TO CLAIM OF JEFFERSON  
CAPITAL SYSTEMS LLC, CLAIM  
NUMBER 32  
2-22-24 [[33](#)]

### **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). 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 sustain the objection to Claim No. 32-1 of Jefferson Capital Systems LLC and disallow the claim in its entirety.

The Debtor requests that the court disallow the claim of Jefferson Capital Systems LLC ("Creditor"), Claim No. 32-1. The claim is asserted to be in the amount of \$1,321.04. The Debtor asserts that the claim should be disallowed because the statute of limitations has run pursuant to California Code of Civil Procedure § 337.

According to the proof of claim, the underlying debt is a contract claim, most likely based on a written contract. California law provides a four-year statute of limitations to file actions for breach of written contracts. See Cal. Civ. Pro. Code § 337. This statute begins to run from the date of the contract's breach. According to the proof of claim, the last payment was received on or about March 5, 2009, which is more than four years prior to the filing of this case. Hence, when the case was filed on September 25, 2023, this debt was time barred under applicable nonbankruptcy law, i.e., Cal. Civ. Pro. Code § 337, and must be disallowed. See 11 U.S.C. § 502(b)(1).

Based on the evidence before the court, the Creditor's claim is disallowed in its entirety.

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

The court will issue an order.

3. [19-26060](#)-B-13 EDDY/EMILY CHONG  
[RWF](#)-3 Robert W. Fong

MOTION TO SELL  
3-5-24 [[54](#)]

### **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 grant the motion to sell.

The Bankruptcy Code permits Chapter 13 debtors to sell property of the estate after a noticed hearing. 11 U.S.C. §§ 363(b) and 1303. Debtors propose to sell property described as 4235 Alvarado Avenue, Stockton, California ("Property").

Proposed purchasers Miguel Angel Barrera and Leticia Barrera have agreed to purchase the Property for \$545,000.00. All liens secured by the Property shall be paid in full. Debtors are currently in month 54 of their 60-month plan and intend to pay off the plan from the sale of the Property. The amount needed to pay the remaining general unsecured claims is estimated at \$14,369.00.

The Chapter 13 Trustee objects to the sale of the Property on grounds that an estimated closing statement was not attached to the motion and that the Trustee was not able to determine if there will be sufficient funds from the sale to pay the case in full at 100% to general unsecured claims. The Trustee further states that should be motion be granted, the Trustee requests its standard sale language be included in the order.

The Debtors filed a reply stating that they have submitted a net seller sheet, which gives the breakdown of the sales proceeds. An estimated closing has not yet been prepared by the title company since it is awaiting court approval before finalizing the closing statement. Debtors assert that they expect proceeds of approximately \$183,955.00, which is sufficient to pay off the plan in full. Debtors further contend that even if they do not receive sufficient funds from the sale of their residence, they are still able to continue making their regular monthly plan payments since they are current and in month 54 of their 60-month plan.

Based on the evidence before the court, the court determines that the proposed sale is in the best interest of the estate. The motion is granted.

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

Debtors' attorney shall submit an order consistent with the Trustee's standard sale language. The order shall be approved by the Trustee.

4. [24-20871](#)-B-13 LEOPOLDO URRUTIA  
[RWF](#)-1 Robert W. Fong

MOTION TO AVOID LIEN OF  
DISCOVER BANK  
3-7-24 [[8](#)]

### **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 the motion to avoid lien of Discover Bank

This is a request for an order avoiding the judicial lien of Discover Bank ("Creditor") against the Debtor's property commonly known as 5503 Hobart Avenue, Stockton, California ("Property").

A judgment was entered against Debtor in favor of Creditor in the amount of \$12,396.11. An abstract of judgment was recorded with San Joaquin County on October 10, 2019, which encumbers the Property.

Pursuant to the Debtor's Schedule A, the Property has an approximate value of \$508,900.00 as of the date of the petition. Debtor has claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of \$400,000.00 on Schedule C. A first deed of trust recorded against the Property totals \$209,450.97.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the Debtor's exemption of the real property and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

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

The court will issue an order.

5. [24-20094](#)-B-13 ENQUAN HE CONTINUED OBJECTION TO  
[BDC](#)-1 James A. Shepherd CONFIRMATION OF PLAN BY FUZHOU  
**Thru #7** WU AND QUAN ZENG  
2-28-24 [[20](#)]

**Final Ruling**

The court having conditionally granted a motion to convert this chapter 13 case to a chapter 11 proceeding, 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.

6. [24-20094](#)-B-13 ENQUAN HE CONTINUED OBJECTION TO  
[LGT](#)-1 James A. Shepherd CONFIRMATION OF PLAN BY LILIAN  
G. TSANG  
2-29-24 [[23](#)]

**Final Ruling**

The court having conditionally granted a motion to convert this chapter 13 case to a chapter 11 proceeding, 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.

7. [24-20094](#)-B-13 ENQUAN HE MOTION TO CONVERT CASE FROM  
[JAS](#)-1 James A. Shepherd CHAPTER 13 TO CHAPTER 11 O.S.T.  
3-28-24 [[41](#)]

**Final Ruling**

The motion has been set for hearing on an order shortening time by Local Bankruptcy Rule 9014-1(f)(3). Since the time for service is shortened to fewer than 14 days, no written opposition is required.

The court's decision is to **conditionally convert this chapter 13 case to a chapter 11 proceeding and continue the matter to April 16, 2024, at 1:00 p.m.**

This motion has been filed by Enquan He ("Debtor") to convert this case from one under Chapter 13 to one under Chapter 11. Pursuant to 11 U.S.C. § 1307(d), at any time before confirmation of a plan and after notice and a hearing, the court may convert a Chapter 13 case to a Chapter 11 case. Here, Debtor complies with the requirements of 11 U.S.C. § 109(d) and, there being no opposition, the court will convert the case to Chapter 11.

**Conditional Nature of this Ruling**

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(3), any party in interest shall have until 5:00 p.m. on Friday, April 12, 2024, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(3). 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

**April 9, 2024 at 1:00 p.m.**

**Page 5 of 10**

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 April 16, 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 April 16, 2024, at 1:00 p.m.

8. [24-20216](#)-B-13 JOSEPH POTPROCKY  
[LGT](#)-1 Colby D. LaVelle

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY LILIAN  
G. TSANG  
3-13-24 [[16](#)]

**Final Ruling**

This matter was continued from April 2, 2024, to allow any party in interest to file a response by 5:00 p.m. Friday, April 5, 2024. Nothing was filed. Therefore, the court's conditional ruling at *dkt.* 20, sustaining the objection, shall become the court's final decision. The continued hearing on April 9, 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.



9. [24-20117](#)-B-13 VENUS SANDOVAL CONTINUED OBJECTION TO  
[LGT](#)-1 Flor De Maria A. Tataje CONFIRMATION OF PLAN BY LILIAN  
G. TSANG  
3-12-24 [[20](#)]

**Final Ruling**

This matter was continued from April 2, 2024, to allow any party in interest to file a response by 5:00 p.m. Friday, April 5, 2024. Debtor filed a timely response addressing the issues raised by the Chapter 13 Trustee and amended schedules. The Trustee shall file a reply by 5:00 p.m. on April 12, 204, as to whether its objections are resolved.

The hearing scheduled for April 9, 2024, is further **continued to April 16, 2024, at 1:00 p.m.**

The court will issue an order.

10. [23-24327](#)-B-13 LUIS IBARRA CONTINUED MOTION TO AVOID LIEN  
[HWW](#)-3 Hank W. Walth OF BANK OF AMERICA, N.A.  
**Thru #12** 3-18-24 [[56](#)]

**Final Ruling**

This matter was continued from April 2, 2024, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, April 5, 2024. Nothing was filed. Therefore, the court's conditional ruling at dkt. 71, granting the motion to avoid judicial lien, shall become the court's final decision. The continued hearing on April 9, 2024, at 1:00 p.m. is vacated.

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

The court will issue an order.

11. [23-24327](#)-B-13 LUIS IBARRA CONTINUED MOTION TO AVOID LIEN  
[HWW](#)-4 Hank W. Walth OF MIDLAND FUNDING LLC  
3-18-24 [[61](#)]

**Final Ruling**

This matter was continued from April 2, 2024, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, April 5, 2024. Nothing was filed. Therefore, the court's conditional ruling at dkt. 72, granting the motion to avoid judicial lien, shall become the court's final decision. The continued hearing on April 9, 2024, at 1:00 p.m. is vacated.

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

The court will issue an order.

12. [23-24327](#)-B-13 LUIS IBARRA CONTINUED MOTION TO AVOID LIEN  
[HWW](#)-5 Hank W. Walth OF CAVALRY SPV I, LLC  
3-18-24 [[66](#)]

**Final Ruling**

This matter was continued from April 2, 2024, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, April 5, 2024. Nothing was filed. Therefore, the court's conditional ruling at dkt. 73, granting the motion to avoid judicial lien, shall become the court's final decision. The continued hearing on April 9, 2024, at 1:00 p.m. is vacated.

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

The court will issue an order.

13. [24-20254](#)-B-13 MARLON MAYO  
[EAM-1](#) Peter G. Macaluso

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY DPS  
FINANCE COMPANY  
3-13-24 [[27](#)]

**Final Ruling**

This matter was continued from April 2, 2024, to allow any party in interest to file a response by 5:00 p.m. Friday, April 5, 2024. Nothing was filed.

However, subsequent to the filing of DPS Finance Company's objection to confirmation, the Debtor filed an amended plan on April 1, 2024. The confirmation hearing for the amended plan is scheduled for May 7, 2024. The earlier plan filed January 23, 2024, is not confirmed.

The court's conditional ruling at dkt. 45, sustaining the objection, is vacated and the objection to confirmation is instead overruled as moot. The continued hearing on April 9, 2024, at 1:00 p.m. is vacated.

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

The court will issue an order.