

**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 11, 2023**

**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 11, 2023 at 1:00 p.m.**

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1. [21-23220](#)-B-13 HARDEEP SINGH CONTINUED MOTION TO CONFIRM  
[DCJ](#)-2 David C. Johnston PLAN  
9-2-22 [[58](#)]

**Final Ruling**

Introduction

The operative plan submitted for confirmation is the Second Amended Plan ("Plan") filed on September 2, 2022. Dkt. 60. Debtor Hardeep Kaur Sing ("Debtor") moves to confirm the Plan. Dkt. 58. Parmjit Kaur ("Parmjit"), a purported secured creditor, opposes the motion and objects to confirmation of the Plan.<sup>1</sup> Dkt. 81. There are no other oppositions to the motion and/or objections to confirmation.

The court has reviewed the Plan, the motion to confirm it, the opposition/objection, and all related declarations and exhibits. The court has also reviewed and takes judicial notice of the docket in this case, the docket in the related adversary proceeding filed in this case, *Singh v. Kaur, et al.*, adv. no. 21-02068 ("Singh AP"), and the claims register in the Chapter 13 case. See Fed. R. Evid. 201(c)(1). Oral argument is not necessary and will not assist in the decision-making process. See Local Bankr. R. 9014-1(b), 1001-1(f).

The court's decision is to overrule the objections, grant the motion, and confirm the Plan.

Discussion

Parmjit claims to be a secured creditor in this Chapter 13 case. More precisely, Parmjit claims to have a lien created by a deed of trust that encumbers the Debtor's residence located at 1434 Intrigue Lane, Manteca, California (the "Home"). The lien is disputed by the Debtor. The dispute and the basis, priority, and extent of the purported lien are fully-explained in Dockets 1, 54, 56, and 64 filed in the Singh AP. The cited documents are incorporated herein and made a part of this ruling by this reference.

For the reasons explained in the April 3, 2023, order filed in the Singh AP, adv. dkt. 64, Parmjit's jurisdictional objections will be overruled.

Parmjit's objections based on an asserted status as a secured creditor and the lack of good faith will also be overruled. Even assuming Parmjit establishes a lien on Home as estate property (through the Singh AP or otherwise), Parmjit did not file a proof of claim in this Chapter 13 case. Parmjit received notice of the proof of claim bar date which expired long ago on November 22, 2021. See dkt. 15. The court is not aware of any basis under Bankruptcy Rule 3002(c) to extend the claims bar date. See *Zidell*,

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<sup>1</sup>A number of parties in the bankruptcy case and the related adversary proceeding share common surnames. For purposes of clarity, first names will be used. No disrespect is intended.

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*Inc. v. Forsch (In re Coastal Alaska Lines, Inc.)*, 920 F.2d 1428, 1432-1433 (9th Cir. 1990) ("We . . . hold that the bankruptcy court cannot enlarge the time for filing a proof of claim unless one of the . . . situations listed in Rule 3002(c) exists."). And the claims bar date cannot be extended for any other equitable reason. *Spokane Law Enforcement Credit Union v. Barker (In re Barker)*, 839 F.3d 1189, 1197 (9th Cir. 2016) ("[T]he Ninth Circuit has repeatedly held that the deadline to file a proof of claim in a Chapter 13 proceeding is 'rigid' and the bankruptcy court lacks equitable power to extend this deadline after the fact."). Without a timely-filed proof of claim, the Plan need not provide for treatment and/or payment of any claim, secured or otherwise, on Parmjit's behalf.<sup>2</sup>

Failure to provide for treatment and/or payment in a plan when there is no obligation to do so is not a lack of good faith.

Parmjit's request for relief from the automatic stay is denied. To the extent the lien that Parmjit asserts on the Home remains in dispute, Parmjit has not established a colorable claim to an interest in the Home.

Parmjit's request to deny the Debtor leave to amend and refile another plan is denied as moot based on the Plan's confirmation.

Because the Plan is confirmable, and will be confirmed, Parmjit's request to dismiss this Chapter 13 case is denied without prejudice.

The 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.

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<sup>2</sup>As explained in the Singh AP, the Debtor did not sign the note associated with the deed of trust which forms the basis of Parmjit's asserted lien on the Home. It is therefore doubtful that Parmjit even has an unsecured claim in the absence of a lien.

2. [20-24933](#)-B-13 THOMAS/RENEE IRELAND  
[BSH](#)-4 Brian S. Haddix

MOTION TO WAIVE FINANCIAL  
MANAGEMENT COURSE  
REQUIREMENT, WAIVE SECTION 1328  
CERTIFICATE  
REQUIREMENT, CONTINUE CASE  
ADMINISTRATION, SUBSTITUTE  
PARTY, AS TO DEBTOR  
3-23-23 [[62](#)]

### **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 substitute Joint Debtor Renee Ireland to continue administration of the case, waive the deceased Debtor's certification otherwise required for entry of a discharge, and **continue the matter to April 18, 2023, at 1:00 p.m.**

Joint Debtor Renee Ireland gives notice of the death of her husband Debtor Thomas Ireland and requests the court to substitute Renee Ireland in place of Thomas Ireland for all purposes within this Chapter 13 proceeding.

### **Discussion**

Local Bankruptcy Rule 1016-1(b) allows the moving party to file a single motion, pursuant to Federal Rule of Civil Procedure 18(a) and Federal Rules of Bankruptcy Procedure 7018 and 9014(c), asking for the following relief:

- 1) Substitution as the representative for or successor to the deceased or legally incompetent debtor in the bankruptcy case [Fed. R. Civ. P. 25(a), (b); Fed. R. Bankr. P. 1004.1 & 7025];
- 2) Continued administration of a case under chapter 11, 12, or 13 (Fed. R. Bankr. P. 1016);
- 3) Waiver of post-petition education requirement for entry of discharge [11 U.S.C. §§ 727(a)(11), 1328(g)]; and
- 4) Waiver of the certification requirements for entry of discharge in a Chapter 13 case, to the extent that the representative for or successor to the deceased or incompetent debtor can demonstrate an inability to provide such certifications (11 U.S.C. § 1328).

In sum, the deceased debtor's representative or successor must file a motion to substitute in as a party to the bankruptcy case. The representative or successor may also request a waiver of the post-petition education, and a waiver of the certification requirement for entry of discharge "to the extent that the representative for or successor to the deceased or incompetent debtor can demonstrate an inability to provide such certifications." Local Bankr. R. 1016-1(b)(4).

Based on the evidence submitted, the court will grant the relief requested, specifically to substitute Renee Ireland for Thomas Ireland as successor-in-interest, and to waive the § 1328 and financial management requirements for Thomas Ireland. The continued administration of this case is in the best interests of all parties and no opposition being filed by the Chapter 13 Trustee or any other parties in interest.

### **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, April 14, 2023, to file and serve an opposition or other response to the motion. See Local Bankr. R. 3007-1(b)(2). Any opposition or response shall be served on the Chapter 13 Debtors and Chapter 13 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 April 18, 2023, 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 18, 2023, at 1:00 p.m.

The court will issue an order.

3. [23-20789](#)-B-13 DEIRDRE WOOLDRIDGE  
[KH-1](#) Pro Se

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
3-21-23 [[16](#)]

DEBTOR DISMISSED: 3/27/23  
TRACY 300, LP. VS.

**Final Ruling**

The case having been dismissed on March 27, 2023, the motion for relief from automatic stay is denied as moot.

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

The court will issue an order.

4. [22-22493](#)-B-13 BERNARDO DE GUZMAN  
[SSH](#)-2 Simran Singh Hundal

MOTION TO CONFIRM PLAN  
2-27-23 [[44](#)]

### **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.

5. [21-20499](#)-B-13 SUSAN MAHLER  
[WLG](#)-10 Nicholas Wajda

MOTION TO INCUR DEBT O.S.T.  
3-30-23 [[108](#)]

**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 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 incur debt.

The motion seeks permission to purchase real property located at 10466 Ruddler Way, Stockton, California, the total purchase price of which is \$525,309.00, with monthly payments of \$3,811.00.

The Chapter 13 Trustee filed a response stating that the Debtor is currently delinquent \$92.00. Additionally, the loan estimate states that a downpayment of \$9,691.00 is needed as well as \$26,177.00 cash to close. The Debtor's motion and declaration are silent as to the source of these funds. Lastly, although Debtor filed as exhibits supplemental Schedules I and J, these updated schedules have not been filed under cover of a properly executed amendment cover sheet and were not executed by Debtor under oath.

The court agrees with the issues raised by the Trustee. Therefore, the motion to incur debt is denied without prejudice.

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

The court will issue an order.



6. [22-21362](#)-B-13 CLAUDIA CASTRO CONTINUED OBJECTION TO CLAIM OF  
[RDG](#)-2 Richard Kwun FLEXSHOPPER, LLC, CLAIM NUMBER  
8  
2-27-23 [[51](#)]

**Final Ruling**

This matter was continued from April 4, 2023, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, April 7, 2023. Nothing was filed. Therefore, the court's conditional ruling at dkt. 54, sustaining the objection to claim, shall become the court's final decision. The continued hearing on April 11, 2023, at 1:00 p.m. is vacated.

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

The court will issue an order.