

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

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1.    [20-24704](#)-B-13    JAMES/JUNE GRAY    MOTION TO MODIFY PLAN  
      [DAB](#)-4            David A. Boone            2-28-24 [[105](#)]

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

MOTION TO CONFIRM PLAN  
2-27-24 [[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. 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.

3. [22-21010](#)-B-13 ALICIA YASSIN  
[DCJ](#)-3 David C. Johnston

MOTION TO MODIFY PLAN  
2-19-24 [[58](#)]

**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.

4. [22-21927](#)-B-13 ORLANDO ANDRADE MOTION FOR RELIEF FROM  
[DVW](#)-1 Flor De Maria A. Tataje AUTOMATIC STAY  
3-22-24 [[95](#)]  
21ST MORTGAGE CORPORATION  
VS.

**Final Ruling**

The motion for relief from automatic stay as to real property 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. Nonetheless, debtor Orlando Andrade ("Debtor") filed a response to the motion of 21st Mortgage Corporation ("Creditor"). Problematic is that the Debtor did not file an accompanying certificate of service.

The court will allow the Debtor to file a certificate of service by 5:00 p.m. on Wednesday, April 17. Creditor shall file a response by 5:00 p.m. on Friday, April 19, as to whether Debtor is current on mortgage payments. The hearing on the motion will be continued to 1:00 p.m. on April 23, 2024.

The court will issue an order.

### **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. *Id.* However, because the Debtor's prior case was dismissed based on the Debtor's oversight, mistake, or inadvertence regarding payment of a filing fee installment which was actually made but sent to the wrong court, further briefing and oral argument are not necessary. See Local Bankruptcy Rule 1001-1(f), 9014-1(f)(2)(C), and 9014-1(h).

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

Debtor seeks to have the automatic stay extended beyond 30 days pursuant to 11 U.S.C. § 362(c)(3). This is the Debtor's second bankruptcy petition pending in the past 12 months. The Debtor's prior bankruptcy case was dismissed on July 21, 2023, for failure to timely pay a filing fee installment (case no. 23-21174, dkt. 35). Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end in their entirety 30 days after filing of the petition. See e.g., *Reswick v. Reswick (In re Reswick)*, 446 B.R. 362 (9th Cir. BAP 2011) (stay terminates in its entirety); accord *Smith v. State of Maine Bureau of Revenue Services (In re Smith)*, 910 F.3d 576 (1st Cir. 2018). This motion was filed within 30 days of the filing of the instant chapter 13 case.

### **Discussion**

Upon motion of a party in interest and after notice and hearing, the court may order the provisions extended beyond 30 days if the filing of the subsequent petition was in good faith. 11 U.S.C. § 362(c)(3)(B). The subsequently filed case is presumed to be filed in bad faith if there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13. *Id.* at § 362(c)(3)(C)(i)(III). The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* at § 362(c)(3)(C).

In determining if good faith exists, the court considers the totality of the circumstances. *In re Elliot-Cook*, 357 B.R. 811, 814 (Bankr. N.D. Cal. 2006); see also Laura B. Bartell, *Staying the Serial Filer - Interpreting the New Exploding Stay Provisions of § 362(c)(3) of the Bankruptcy Code*, 82 Am. Bankr. L.J. 201, 209-210 (2008). This court does not utilize the *Sarafoglou* factors as urged by the Debtor. See *In Re Sarafoglou*, 345 B.R. 19 (Bankr. D. Mass. 2006).

The Debtor states that he attempted to make the third payment due on July 11, 2023, but had inadvertently sent it to the United States Central District of California Bankruptcy Court instead of the Eastern District Court. A financial specialist with the Central District of California emailed Debtor with instructions on how he should proceed with getting a refund of \$78.00. Debtor states that he did not fully understand the problem with the erroneous payment at the time and therefore failed to remit the \$78.00 to the Eastern District by the July 11, 2023, due date. Debtor acknowledges that he made a payment error, that it was an honest mistake, and that he did not intend to abuse the bankruptcy process. In the current chapter 13 bankruptcy case, Debtor has paid the filing fee of \$313.00 in full. This directly addresses the cause for dismissal in his prior bankruptcy case.

The Debtor has sufficiently rebutted, by clear and convincing evidence, the presumption of bad faith under the facts of this case and the prior case for the court to extend the automatic stay.

The motion is granted and the automatic stay is extended for all purposes and parties, unless terminated by operation of law or further order of this court.

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

The court will issue an order.

6. [23-21635](#)-B-13 DEBRA MAGHONEY  
[PGM](#)-2 Peter G. Macaluso

CONTINUED OBJECTION TO CLAIM OF  
PORTFOLIO RECOVERY ASSOCIATES,  
LLC, CLAIM NUMBER 1  
2-12-24 [[36](#)]

**Final Ruling**

A stipulation between debtor Debra Maghoney and creditor Portfolio Recovery Associates, LLC was filed on April 11, 2024. An order approving the stipulation was entered on April 12, 2024. The hearing on April 16, 2024, is vacated.

The court will issue an order.



7. [24-20447](#)-B-13 JON/ANNETTE WING  
[KMM](#)-1 Mark S. Nelson

OBJECTION TO CONFIRMATION OF  
PLAN BY MEB LOAN TRUST II, U.S.  
BANK TRUST NATIONAL ASSOCIATION  
3-7-24 [[15](#)]

**Final Ruling**

Creditor MEB Loan Trust II, U.S. Bank Trust National Association having filed a notice of dismissal 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 February 5, 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.

8. [14-22555](#)-B-13 MELANIO/ELLEN VALDELLON MOTION TO DISMISS ADVERSARY  
[21-2008](#) PHH-3 PROCEEDING/NOTICE OF REMOVAL  
VALDELLON ET AL V. WELLS FARGO 3-13-24 [[112](#)]  
BANK, N.A. ET AL

ADVERSARY PROCEEDING  
DISMISSED: 08/20/2021

CONTINUED TO 4/30/24 AT 1:00 P.M. AT THE SACRAMENTO COURTROOM.

**Final Ruling**

No appearance at the April 16, 2024, hearing is required. The court entered an order continuing the hearing on the motion to dismiss and directing further briefing. See dkt. 118.

9. [23-24679](#)-B-13 ERIK LEWELLYN AND MOTION TO PAY  
[FWP](#)-2 GEONETTE WOODS 3-18-24 [[28](#)]  
Le'Roy Roberson

### **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 for allowance of administrative expense claim.

The motion is not opposed. The defaults of all parties in interest who did not respond are entered. Fed. R. Civ. P. 55; Fed. R. Bankr. P. 7055.

Defaults permit the court to take all well-pleaded factual allegations as true. *Angulo v Southstar III, LLC (In re Angulo)*, 2010 WL 6452895, at \*5 (9th Cir. BAP Oct. 11, 2010) (citing *Danning v. Lavine*, 572 F.2d 1386, 1388 (9th Cir. 1978) ("In the absence of any challenge to the [motion], the bankruptcy court was entitled to take as true the well-pleaded allegations in the [motion]."). The absence of opposition, entry of defaults, and the ability to take all factual allegations in the motion as true makes oral argument unnecessary. Local Bankruptcy Rule 1001-(f), 9014-1(h).

The schedules and petition identify debtor Geonette G. Woods and Silver Mallard, LLC, as one and the same. The latter's assets are also included as part of this chapter 13 case. That makes the post-petition, pre-rejection rent and other charges that have accrued under Silver Mallard's unexpired and not-yet-rejected lease of property at 1700 I Street, Suite 120, Sacramento, California, which premises have not been surrendered by Silver Mallard and which remain subject to Silver Mallard control, appropriate administrative claims in this chapter 13 case. Therefore, landlord LV The Best Company, LLC, shall have and is allowed an administrative claim in the amount of at least \$8,470.44 as of March 18, 2024, and at least \$11,293.92 as of April 16, 2024, if the rent and CAM charges due April 1, 2024, have not been paid by April 6, 2024.

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

The court will issue an order.

10. [22-21184](#)-B-13 BERTHA VALENTINE  
[22-2086](#) FI-8  
VALENTINE V. HOLMES, III ET AL

MOTION FOR COMPENSATION FOR  
FRED IHEJIRIKA, PLAINTIFFS  
ATTORNEY(S)  
3-13-24 [[252](#)]

**Final Ruling**

The matter is continued to May 14, 2024, at 11:00 a.m. at the Sacramento Courtroom. No appearance at the April 16, 2024, hearing is required.

The court will issue an order.

11. [20-22995](#)-B-13 GILBERT/BLANCA LUIS OBJECTION TO CLAIM OF LTD  
[LGT-1](#) Peter G. Macaluso ACQUISITIONS, LLC, CLAIM NUMBER  
17  
3-8-24 [[121](#)]

### **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. 17-1 of LTD Acquisitions, LLC and continue the matter to April 23, 2024, at 1:00 p.m.

The Chapter 13 Trustee ("Trustee") requests that the court disallow the claim of LTD Acquisitions, LLC ("Creditor"), Claim No. 17-1. The claim is asserted to be unsecured in the amount of \$433.92. The Trustee asserts that the proof of claim is a duplicate of Claim No. 16-1. The Trustee's office sent notices of the duplicate claim to Creditor on September 15, 2023, and October 31, 2023, with no response or amendments. On March 4, 2024, the Trustee's office sent an email to the Creditor at the address listed on their proof of claim. The Trustee's office received an email notification stating delivery of the email had failed.

### **Discussion**

The Trustee's omnibus objection to Creditor's claims is based solely on the ground provided in Rule 3007(d)(1) because the claims duplicate other claims. See Fed. R. Bankr. P. 3007(d)(1). Both Claim Nos. 16-1 and 17-1 assert the same obligation in the same amount against the same debtor.

The court sustains the objection and disallows duplicate Claim No. 17-1. Creditor shall retain only one claim incorporating the entire obligation owed to it. The objection to the proof of claim is conditionally sustained.

### **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, April 19, 2024, 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 April 23, 2024, 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 April 23, 2024, at 1:00 p.m.

12. [24-20094](#)-B-13 ENQUAN HE  
[JAS](#)-1 James A. Shepherd

MOTION TO CONVERT CASE FROM  
CHAPTER 13 TO CHAPTER 11 O.S.T.  
3-28-24 [[41](#)]

**Final Ruling**

This matter was continued from April 9, 2024, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, April 13, 2024. Nothing was filed. Therefore, the court's conditional ruling at dkt. 54, granting the motion to convert case, shall become the court's final decision. The continued hearing on April 16, 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. [24-20117](#)-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**

The Chapter 13 Trustee having filed a notice of dismissal of its objection, the objection is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) 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 January 11, 2024, will be confirmed with modifications to the plan stated in the order confirming.

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.