

**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: April 22, 2025

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

April 22, 2025 at 1:00 p.m.

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1. [25-90106](#)-B-13 JOANN SALINAS DIAZ OBJECTION TO CONFIRMATION OF
[NLG](#)-1 T. Mark O'Toole PLAN BY CREDITOR WILMINGTON
SAVINGS FUND SOCIETY, FSB
3-5-25 [[14](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankr. R. 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 Bankr. R. 9014-1(f)(1)(C). A written reply has been filed to the objection.

All objections have been resolved and the court has determined that oral argument is not necessary. See Local Bankr. R. 1001-1(f), 9014-1(h). This matter will be decided on the papers. No appearance at the hearing is necessary.

The court's decision is to overrule the objection and confirm the plan.

Wilmington Savings Fund Society, FSB ("Creditor"), objects to confirmation of the plan on grounds that it does not account for Creditor's pre-petition arrears totaling approximately \$40,429.62. Debtor's plan only proposes to cure \$37,452.78. To provide for all of Creditor's pre-petition arrears over 60 months as required, Debtor would need to increase the monthly plan payment by a minimum of \$49.61 per month. See 11 U.S.C. § 1322(b)(5) and § 1325(a)(5)(B)(ii).

Debtor filed a response stating that she is amenable to increasing her plan payment by \$49.61 per month to cover the pre-petition arrears owed to Creditor. Debtor further states that she has reviewed and decreased her expenses and has filed amended Schedule J to reflect this minor change. Debtor requests that the court allow the increase in plan payment by \$50 to be identified in the order confirming plan.

With the minor adjustment in monthly plan payment as stated above, the plan filed February 13, 2025, complies with 11 U.S.C. §§ 1322 and 1325(a). The objection is overruled and the plan is confirmed.

The objection is ORDERED OVERRULED 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.

April 22, 2025 at 1:00 p.m.

2. [23-90607](#)-B-13 KRISTOPHER COOPER
[DCJ](#)-2 David C. Johnston

MOTION FOR COMPENSATION FOR
DAVID C. JOHNSTON, DEBTORS
ATTORNEY(S)
3-31-25 [[104](#)]

DEBTOR DISMISSED: 08/29/24

Final Ruling

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). 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 for compensation.

Fees and Costs Requested

David Johnston ("Movant"), the attorney to Chapter 13 Debtor Kristopher Cooper ("Debtor"), makes a request for the allowance of \$12,560 in fees and to apply \$3,153 in funds held in trust. The period for which the fees are requested is for December 4, 2023, through August 26, 2024. The Amended Disclosure of Compensation of Attorney for Debtor(s) states that Movant had originally agreed to accept \$8,137.00 for his legal services. Dkt. 59.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

Here, Movant has filed an exhibit detailing the legal services provided. They consist of 31.4 hours for services including, but not limited to: meeting with Debtor to discuss his prior chapter 13 case, foreclosure against his home, unfiled tax returns, substantial domestic support obligations, and his former wife's efforts in superior court to order his home sold to satisfy his domestic support obligation; filing the present chapter 13 petition; filing a motion to extend the automatic stay; appearance at four meetings of creditors; reviewing proofs of claim filed; reviewing objections to confirmation; getting missing tax returns; reviewing objections to confirmation; reviewing motions to dismiss case; countless hours negotiating with the attorney for Rolling F Credit Union that held a security interest in a pickup truck in the possession of Debtor's son; opposing a contempt motion for Debtor's failure to return the truck; and settling the contempt motion. The case was ultimately dismissed for Debtor's failure to make all payments due under the plan.

The court is persuaded that Movant provided legal services that would justify an award for additional fees.

Movant is allowed the following amounts as compensation to this professional in this case:

Previous balance	\$0.00
Funds held in trust	\$3,153.00
Current fees and expenses	\$12,560.00
Total due	\$9,407.00

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

The court will issue an order.

3. [24-90818](#)-B-13 RAMIRO/SUNSHINE GUEVARA MOTION FOR RELIEF FROM
[KMM](#)-1 Seth L. Hanson AUTOMATIC STAY
3-24-25 [[17](#)]

TOYOTA MOTOR CREDIT
CORPORATION VS.

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). A response was filed by the Chapter 13 Trustee ("Trustee").

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 for relief from automatic stay.

Toyota Motor Credit Corporation ("Movant") seeks relief from the automatic stay to accept and apply insurance proceeds related to the total loss of a 2017 Toyota Camry ("Vehicle") and to send any party protected by the stay any notice required by state and/or federal law, regulation, or statute. The insurance settlement funds are \$19,738.21. Movant seeks to allow it to apply \$4,640.96 (payoff at time of loss) of the insurance settlement toward the balance of its secured claim and to remit the balance of the insurance settlement to Debtors as provided for under the terms of the Retail Installment Sale Contract.

The Trustee filed a response stating that it had paid to Movant \$4,179.51 (\$4,123.12 principal and \$56.39 interest). After being notified by Geico Insurance ("Geico") of the total loss of the Vehicle, the Trustee submitted a demand letter requesting \$3,712.89 representing the remaining principal balance due on the claim, interest due through March 2025, and Trustee fees. The Trustee received a check from Geico in the amount of \$3,712.89. The current balance on the claim is \$484.06 plus interest of \$3.43 for a total of \$487.49. Accordingly, once the funds from Geico are posted, the Trustee will retain \$535.70 and return the remaining \$3,177.19 to the Debtors. The Trustee states that it will pay the claim in full through this bankruptcy case as required by the Debtors' confirmed Chapter 13 Plan.

The court shall issue an order terminating and vacating the automatic stay to allow creditor, its agents, representatives and successors, to apply insurance proceeds and to send any party protected by the stay any notice required by state and/or federal law, regulation, or statute.

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

The court will issue an order.

4. [24-90757](#)-B-13 JAMES LEGENSKY
[WLG](#)-2 Nicholas Wajda

MOTION TO CONFIRM PLAN
3-12-25 [[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. 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.

5. [25-90074](#)-B-13 SCOTT/NAOMI ANDERSEN
[LGT](#)-1 Simran Singh Hundal

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
3-24-25 [[12](#)]

WITHDRAWN BY M.P.

Final Ruling

The Chapter 13 Trustee having filed a notice of withdrawal 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 January 31, 2025, 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.