

**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: May 16, 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
Modesto, California

May 16, 2023 at 1:00 p.m.

1. [23-90006](#)-B-13 MARK FREEBORN MOTION TO CONFIRM PLAN
[SSH](#)-2 Simran Singh Hundal 3-28-23 [[32](#)]

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.

May 16, 2023 at 1:00 p.m.

2. [22-90069](#)-B-13 NICOLE ROLLINS-PLAYER AND MOTION TO MODIFY PLAN
[MRL](#)-1 LORENZO PLAYER 4-6-23 [[24](#)]
Mikalah Liviakis

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. Counsel for the Debtors 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. [23-90073](#)-B-13 RUBEN ALVAREZ AND MARIA AMENDED OBJECTION TO
[APN](#)-1 GOMEZ-ALVAREZ CONFIRMATION OF PLAN BY GLOBAL
Grace S. Johnson LENDING SERVICES LLC
Thru #6 3-24-23 [[25](#)]

Final Ruling

Debtors Ruben Alvarez and Maria Gomez-Alvarez and creditor Global Lending Services LLC entered into a stipulation valuing a 2015 Nissan Armada and setting an interest rate for the creditor's claim. The stipulation was granted on May 2, 2023. No appearance at the May 16, 2023, hearing is required.

The court will issue an order.

4. [23-90073](#)-B-13 RUBEN ALVAREZ AND MARIA MOTION TO AVOID LIEN OF LVNV
[GSJ](#)-2 GOMEZ-ALVAREZ FUNDING
Grace S. Johnson 4-13-23 [[34](#)]

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 LVNV Funding.

This is a request for an order avoiding the judicial lien of LVNV Funding ("Creditor") against the Debtors' property commonly known as 3875 Podocarpus Drive, Ceres, California ("Property").

A judgment was entered against Debtor Ruben Alvarez in favor of Creditor in the amount of \$2,070.47. An abstract of judgment was recorded with Stanislaus County on May 30, 2017, which encumbers the Property.

Pursuant to the Debtors' Schedule A, the Property has an approximate value of \$485,000.00 as of the date of the petition. Debtors have claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of \$80,812.81 on Schedule C. All other liens recorded against the Property total \$404,187.19.

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 Debtors' 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. [23-90073](#)-B-13 RUBEN ALVAREZ AND MARIA MOTION TO AVOID LIEN OF RAY
[GSJ](#)-3 GOMEZ-ALVAREZ GARCIA
Grace S. Johnson 4-13-23 [[39](#)]

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 Ray Garcia.

This is a request for an order avoiding the judicial lien of Ray Garcia ("Creditor") against the Debtors' property commonly known as 3875 Podocarpus Drive, Ceres, California ("Property").

A judgment was entered against Debtor Ruben Alvarez in favor of Creditor in the amount of \$33,000.00. An abstract of judgment was recorded with Stanislaus County on July 10, 202, which encumbers the Property.

Pursuant to the Debtors' Schedule A, the Property has an approximate value of \$485,000.00 as of the date of the petition. Debtors have claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of \$80,812.81 on Schedule C. All other liens recorded against the Property total \$404,187.19.

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 Debtors' 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.

6. [23-90073](#)-B-13 RUBEN ALVAREZ AND MARIA OBJECTION TO CONFIRMATION OF
[RDG](#)-1 GOMEZ-ALVAREZ PLAN BY RUSSELL D. GREER
Grace S. Johnson 4-24-23 [[44](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 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 Bankruptcy Rule 9014-1(f)(1)(C). A written reply and response were filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the objection. 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 sustain the objection to confirmation.

Debtors entered into a stipulation with creditor Global Lending Services, LLC that increases the collateral value of a 2015 Nissan Armada to \$15,800.00 with an interest

rate of 9.25%. Debtors' plan is no longer mathematically feasible. The plan payment will need to be at least \$3,245.00 in order for Debtors' plan to be feasible. 11 U.S.C. § 1325(a)(6).

Other issues raised by the Chapter 13 Trustee pertaining to the need for Debtors to file amended schedules and forms appears to have been resolved. Debtors filed amended schedules on May 14, 2023.

The plan filed March 8, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

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

The court will issue an order.

7. [23-90074](#)-B-13 MARK/MAUREEN BOULLION
[MWP](#)-1 Mark S. Nelson
OBJECTION TO CONFIRMATION OF
PLAN BY LOUIS ANTHONY CONTER,
JR., MAUREEN CONTER AND JERALD
RUSS, TRUSTEE OF THE RUSS
FAMILY TRUST
4-25-23 [[14](#)]

Final Ruling

Debtors Mark Boullion and Maureen Boullion and creditor Louis Anthony Conter, Jr., Maureen Conter and Jerald Russ, Trustee of the Russ Family Trust, entered into a stipulation continuing the objection to confirmation to May 23, 2023, at 1:00 p.m. No appearance at the May 16, 2023, hearing is required.

The court will issue an order.

8. [23-90078](#)-B-13 JUAN ZUNIGA
[RDG](#)-1 Christie S. Lee

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
4-24-23 [[13](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Nonetheless, the court determines that the resolution of this matter does not require oral argument. See Local Bankr. R. 9014-1(h).

The court's decision is to overrule the objection as moot.

Subsequent to the filing of the Chapter 13 Trustee's objection, the Debtor filed an amended plan on April 25, 2023. The earlier plan filed February 24, 2023, is not confirmed.

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

The court will issue an order.