

**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 17, 2022

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.

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claims filed. (Emphasis added). Admittedly, the local rule provides one example of a post-confirmation plan modification that is anticipated and therefore not compensable as "substantial and unanticipated post-confirmation work." But the court sees no difference between the example provided in the local rule and a post-confirmation plan modification to account for a plan payment default. Both instances involve an adjustment to plan payments.

In any case, for the foregoing reasons, the Law Firm's request for compensation in addition to the "no-look" fee is ORDERED DENIED. And because the request for additional compensation is denied, the request for compensation associated with the preparation of the motion for compensation is also ORDERED DENIED.

The court will prepare an order.

2. [21-90583](#)-B-13 ANTONIO GONZALEZ MEJIA MOTION TO CONFIRM PLAN
[LBF](#)-2 Lauren Franzella 4-7-22 [[44](#)]
Thru #3

Final Ruling

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 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). Opposition was filed

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 confirm the first amended plan.

The Chapter 13 Trustee filed an opposition to confirmation of the plan on grounds that the feasibility of Debtor's plan is contingent upon the court granting Debtor's motion for order approving loan modification. The court has granted Debtor's motion for order approving loan modification at Item #3, LBF-3. Accordingly, Trustee's grounds for objecting to confirmation have been resolved and this objection will be overruled.

The amended plan complies with 11 U.S.C. §§ 1322, 1323, 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.

3. [21-90583](#)-B-13 ANTONIO GONZALEZ MEJIA MOTION TO APPROVE LOAN PAYMENT
[LBF](#)-3 Lauren Franzella DEFERRAL AGREEMENT
4-7-22 [[52](#)]

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 approve the payment deferral agreement.

Debtor seeks court approval to into and finalize a Payment Deferral Agreement. Flagstar Bank, FSB ("Creditor"), whose claim the plan provides for in Class 4, has agreed to a payment deferral agreement that will adjust the due date of Debtor's next scheduled monthly payment to bring his mortgage current; defer the payment of the total past-due amounts to the maturity date of the mortgage loan or earlier upon the sale or transfer of the subject property, refinance of the mortgage loan, or payoff of the interest-bearing unpaid principal balance; and waive any late charges. As of March 31, 2022, Debtor's mortgage payments were delinquent in the amount of \$9,885.69, and the proposed agreement brings the mortgage current. Debtor must repay the Department of Housing and

Urban Development ("HUD") by signing an interest-free subordinate note. HUD secures repayment of the subordinate note by placing a subordinate lien on Debtor's property. Debtor must pay the subordinate note in full when he pays off his loan through a refinance, a sale of the property or a transfer of the property to another party, unless HUD agrees otherwise. If Debtor defaults on the loan, Debtor must also pay the subordinate note.

The motion is supported by the Declaration of Leonard Mojica. The Declaration affirms the Debtor's desire to obtain the post-petition financing. Although the Declaration does not state the Debtor's ability to pay this claim on the modified terms, the court finds that the Debtor will be able to pay this claim since it provides for the deferral of delinquent mortgage payments.

This payment deferral agreement is consistent with the Chapter 13 plan in this case and Debtor's ability to fund that plan. There being no objection from the Trustee or other parties in interest, and the motion complying with the provisions of 11 U.S.C. § 364(d), the motion is granted.

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

The court will issue an order.

4. [22-90093](#)-B-13 JAMES RIDDLE
[JNV](#)-2 Jason N. Vogelpohl

MOTION TO APPROVE LOAN
MODIFICATION
4-22-22 [[22](#)]

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, and may appear at the hearing to offer oral argument.

The court's decision is to grant the motion.

Debtor seeks court approval to incur post-petition credit. Rushmore Loan Management Services ("Creditor"), whose claim the plan provides for in Class 1, has agreed to a loan modification that will reduce Debtor's mortgage payment from the current \$1,437.30 a month to \$1,335.04 a month. The modification will, in addition to reducing Debtor's mortgage payment, reduce the new principal balance to \$162,588.50, change the interest rate to 4.750% for years one through the end of the loan term, and extend the maturity date of the loan to May 1, 2052.

The motion is supported by the Declaration of James Riddle. The Declaration affirms the Debtor's desire to obtain the post-petition financing. Although the Declaration does not state the Debtor's ability to pay this claim on the modified terms, the court finds that the Debtor will be able to pay this claim since it is a reduction from the Debtor's current monthly mortgage payments.

This post-petition financing is consistent with the Chapter 13 plan in this case and Debtor's ability to fund that plan. There being no objection from the Trustee or other parties in interest, and the motion complying with the provisions of 11 U.S.C. § 364(d), the motion is granted.

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

The court will issue an order.

5. [18-90512](#)-B-13 KEVIN/MARIA SMITH
[MSN](#)-1 Mark S. Nelson

CONTINUED MOTION TO SELL
4-20-22 [[25](#)]

Final Ruling

This matter was continued from May 10, 2022, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, May 13, 2022. Nothing was filed. Therefore, the court's conditional ruling at dkt. 39, granting the motion to sell, shall become the court's final decision. The continued hearing on May 17, 2022, at 1:00 p.m. is vacated.

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