

**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 21, 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.

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Modesto, California

May 21, 2024 at 1:00 p.m.

1. [24-90119](#)-B-13 TIMOTHY/CHERYL PORTER OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Simran Singh Hundal PLAN BY LILIAN G. TSANG
4-24-24 [[18](#)]

CONTINUED TO 6/11/24 AT 1:00 P.M. AT MODESTO COURTROOM TO BE HEARD IN WITH THE MOTION
TO VALUE COLLATERAL OF ONEMAIN FINANCIAL GROUP, LLC.

Final Ruling

No appearance at the May 21, 2024, hearing is required. The court will issue an order.

2. [24-90122](#)-B-13 MATTHEW/NICOLE STETLER OBJECTION TO CONFIRMATION OF
[CAS-1](#) Rabin Pournazarian PLAN BY BRIDGECREST CREDIT
Thru #3 COMPANY, LLC
3-21-24 [[11](#)]

Final Ruling

A stipulation between creditor Bridgecrest Credit Company, LLC and debtors Matthew Stetler and Nicole Stetler was filed with the court that resolves the creditor's objection to confirmation. The creditor's objection to the plan was deemed withdrawn and is dismissed without prejudice.

The objection is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

3. [24-90122](#)-B-13 MATTHEW/NICOLE STETLER OBJECTION TO CONFIRMATION OF
[CAS-2](#) Rabin Pournazarian PLAN BY CAPITAL ONE AUTO
FINANCE
4-24-24 [[24](#)]

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). No written reply has been 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 and deny confirmation of the plan.

Creditor Capital One Auto Finance ("Creditor") holds a security interest in a vehicle identified in its motion as a 2013 GMC Sierra 1500 Crew Cab Work Truck Pickup 4D, VIN ending in -3497 ("Vehicle"). Creditor filed Claim No. 30 identifying the collateral as secured in the amount of \$10,877.48. The proof of claim has not been objected to by debtors Matthew Stetler and Nicole Stetler ("Debtors") or any other party. Creditor argues that the plan fails to provide for Creditor, fails to pay an appropriate interest rate, and fails to provide for equal monthly payments to Creditor. 11 U.S.C. § 1325(a)(6). The court agrees.

The plan filed March 1, 2024, 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.

4. [22-90157](#)-B-13 OSCAR/SANDRA LOPEZ
[MJC](#)-2 Lauren Franzella

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-19-24 [[100](#)]

EVA MUNOZ VS.

Final Ruling

Before the court is a *Motion for Relief From the Automatic Stay of 11 U.S.C. § 362* filed by creditor Eva C. Munoz ("Creditor"). Debtors Oscar and Sandra Lopez ("Debtors") filed an opposition. Creditor filed a reply.

The court has reviewed the motion, opposition, reply, and all related declarations and exhibits. The court has also reviewed and takes judicial notice of the docket. 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. 1001-1(f), 9014(h). Findings of fact and conclusions of law are set forth below. See Fed. R. Civ. P. 52(a); Fed. R. Bankr. P. 7052, 9014(c).

The court's decision is to deny the motion for relief from automatic stay.

Creditor requests relief from the automatic stay of 11 U.S.C. § 362(a) to *enforce* a judgment entered in state court litigation which this court allowed to proceed by an order modifying the automatic stay entered on July 20, 2022. In relevant part, the order of July 20, 2022, states as follows:

The court shall issue an order modifying the automatic stay as it applies to the Debtors to allow the Movant to continue the State Court Litigation.

The automatic stay is not modified with respect to the enforcement of the judgment against the Debtors, Chapter 13 Trustee, or property of the bankruptcy estate. Any judgment obtained shall be brought back to this court for the proper treatment of any claims under the Bankruptcy Code.

Dkts. 31, 32.

The state court litigation is a dispute over the Debtors' and Creditor's interests in real property located at 3418 Santa Fe Street, Riverbank, California ("Riverbank Property"). The state court recently determined that Creditor owns a 1/3 undivided interest in the Riverbank Property as a co-tenant with the Debtors. Although there is some dispute over the extent and timeliness of the Debtors' appeal from the state court's decision, Creditor asserts that the state court has ordered and authorized a partition of the Riverbank Property by sale. As this court understands and construes Creditor's motion, Creditor now seeks additional relief from the automatic stay and the relief from the July 20, 2022, order to proceed with a partition sale outside of bankruptcy. Creditor's motion will be denied.

The Bankruptcy Code provides a specific and detailed procedure for the sale of property a debtor co-owns with a non-debtor. See 11 U.S.C. § 363(h)-(j); Fed. R. Bankr. P. 7001(3). The procedure incorporates applicable California law. *Stine v. Diamond (In re Flynn)*, 297 B.R. 599, 605 (9th Cir. BAP 2003), *rev'd and remanded on other grounds*, 418 F.3d 1005 (9th Cir. 2005). And Creditor has standing to avail herself of it if she chooses to do so. See *Community Nat'l Bank & Trust Co. v. Persky (In re Persky)*, 893 F.2d 15, 17-18 (2d Cir. 1989).

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

The court will issue an order.