

**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: May 23, 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  
Sacramento, California

**May 23, 2023 at 1:00 p.m.**

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1. [22-22612](#)-B-13 LAWRENCE/JENNY BOLDON MOTION TO CONFIRM PLAN  
[BSH](#)-6 Brian S. Haddix 3-24-23 [[71](#)]

**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 not confirm the third amended plan.

First, the Debtors cannot afford plan payments. The plan proposes to pay \$5,800.00 per month for months 6 through 60. However, Debtors' Schedules I and J show that they have a monthly net income of only \$5,075.00 per month. Therefore, the Debtors' plan is not feasible. 11 U.S.C. § 1325(a)(6).

Second, the plan relies on motions to value collateral being filed for Rudolph Inc., Comenity Bank, SYNCB, and Ally Financial. To date, the Debtors have not filed motions to value collateral for these creditors. If the motions to value are not filed and granted, the plan does not have sufficient monies to pay the claims in full. 11 U.S.C. § 1325(a)(6).

Third, Debtors' plan provides for Harley Davidson as a Class 2 claim in the amount of \$5,980.78 to be paid at 8.50% interest a monthly dividend of \$122.70. Harley Davidson has filed a proof of claim 16-1 with a secured portion of \$15,432.23. Debtors' plan is a 60-month plan and the average monthly dividend proposed for the Class 2 claim of Harley Davidson will take 314 months to pay. 11 U.S.C. §1325(a)(6).

The amended plan does not comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is not confirmed.

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

The court will issue an order.

**May 23, 2023 at 1:00 p.m.**

### **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 by creditor The Golden 1 Credit Union, the Chapter 13 Trustee, and creditor Paul J. Newman.

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 not confirm the amended plan.

First, Debtors plan relies on three motions to value collateral being filed for Golden 1 Credit Union, Chase Bank, and One Main. To date, Debtors have failed to file any motions to value collateral. If the motions are not filed and granted, the plan does not have sufficient monies to pay the claims in full. Therefore, the plan is not confirmable.

Second, Debtors' schedules list non-exempt assets totaling \$216,030.05 and unsecured priority claims totaling \$9,000.00. Accordingly, there are non-exempt assets available for distribution to Debtors' general unsecured creditors of \$207,030.05 (from \$216,030.05 minus \$9,000.00). Based on a review and analysis of Debtors' schedules, Debtors have non-priority general unsecured claims totaling \$90,079.67. Therefore, in order to meet the liquidation test of 11 U.S.C. §1325(a)(4), Debtors' plan must pay 100% to general unsecured creditors, plus interest at the Federal Judgment Rate of 5.04%, since the value of the non-exempt assets exceeds the amount of the general unsecured claims.

Third, Debtors' Disclosure of Compensation of Attorney for Debtor at Line 6 states that the agreed upon fee of \$4,000.00 does not include judicial lien avoidances and relief from stay actions. This is contradictory to the Rights and Responsibilities signed by Debtors and their attorney. These services are included in the "No Look Fee" and should not be excluded.

Fourth, the plan classifies Equity Wave Lending (loan servicer for Paul J. Newman) and Zion Christian Assembly as Class 2 creditors in the amounts of \$186,039.95 and \$97,000.00, respectively, to be paid at 0% interest a zero dividend. Debtors have testified that there are arrears due to both creditors and that the correct classification of Equity Wave Lending and Zion Christian Assembly should be as Class 1.

Fifth, objecting creditor Paul J. Newman, as Trustee of the Paul J. Newman Trust, holds a deed of trust secured by real property located at 1746 E. Market Street, Stockton, California. The creditor has filed a timely proof of claim in which he asserts \$197,771.27 in pre-petition arrearages. The plan does not propose to cure these arrearages. Because the plan does not provide for the surrender of the collateral for this claim, the plan must provide for full payment of the arrearage and maintenance of the ongoing note installments. See 11 U.S.C. §§ 1322(b)(2), (b)(5) and 1325(a)(5)(B). Because it fails to provide for the full payment of arrearages, the plan cannot be confirmed.

The amended plan does not comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is not confirmed.

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

The court will issue an order.

3.     [22-22683](#)-B-13   MONIQUE ZE                             CONTINUED MOTION TO CONFIRM  
      [RS-1](#)               Richard L. Sturdevant             PLAN  
  2-7-23   [\[51\]](#)

CONTINUED TO 6/20/2023 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF  
CREDITORS SET FOR 6/14/2023.

**Final Ruling**

No appearance at the May 23, 2023, hearing is required. The court will issue an order.

4. [20-21602](#)-B-13 JOSE/LETICIA GONZALEZ CONTINUED MOTION TO MODIFY PLAN  
[GSJ](#)-2 Grace S. Johnson 3-6-23 [[80](#)]

**Final Ruling**

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 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). 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 not permit the requested modification and not confirm the modified plan.

The Chapter 13 Trustee filed an objection to modification of the plan. The Debtors filed a response stating that they will file a new plan and consent to the denial of the motion at issue.

The modified plan does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

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

The court will issue an order.

5. [23-20710](#)-B-13 FREDERICK GROSS  
[RDG](#)-1 Grace S. Johnson

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY RUSSELL  
D. GREER  
4-24-23 [[16](#)]

**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)(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 March 6, 2023, 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 and 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.

6. [21-20499](#)-B-13 SUSAN MAHLER  
Nicholas Wajda

CONTINUED MOTION FOR  
COMPENSATION FOR NICHOLAS M.  
WAJDA, DEBTORS ATTORNEY(S)  
4-7-23 [[121](#)]

### **Final Ruling**

This matter was continued from January 25, 2023, to allow attorney Nicholas Wajda to file his task billing analysis as a separate document per Local Bankr. R. 9004-2(c)(1) and (d)(1) by 5:00 p.m. Friday, May 19, 2023.<sup>1</sup> This was not done. Therefore, the court's conditional ruling at dkt. 142, denying the motion for compensation, shall become the court's final decision.

The motion is ORDERED DENIED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

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<sup>1</sup>Although the court stated in its minutes that Mr. Wadja did not file a separate declaration, he did use the court's Form EDC 3-095 Application and Declaration Re: Additional Fees and Expenses in Chapter 13 Cases. This resolves the issue pertaining to the need for a declaration.