

**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: June 11, 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  
**Sacramento, California**

**June 11, 2024 at 1:00 p.m.**

1. [24-21500](#)-B-13 NATASHA JACKSON MOTION TO VALUE COLLATERAL OF  
[JBR](#)-1 Jennifer B. Reichhoff ILWU CREDIT UNION  
5-12-24 [[31](#)]

## 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 deny the motion to value collateral.

Debtor moves to value the secured claim of ILWU Credit Union ("Creditor"). Debtor is the owner of a 2021 Kia K5 ("Vehicle"). The Debtor seeks to value the Vehicle at a replacement value of \$11,711.00 as of the petition filing date. As the owner, Debtor's opinion of value is evidence of the asset's value. See Fed. R. Evid. 701; see also *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004). Separately, no declaration was filed in support of the motion.

No Proof of Claim Filed

The court has reviewed the Claims Registry for this bankruptcy case. No proof of claim has been filed by Creditor for the claim to be valued.

## Discussion

The court finds issue with Debtor's valuation. First, the motion states that the valuation of the Vehicle is based on a Kelley Blue Book printout but this is a third-party industry source and, therefore, Debtor's opinion of value is based on hearsay. Fed R. Evid. 801-803; *see also In re Guerra*, 2008 WL 3200931, \*2 n.4 (Bankr. E.D. Cal. 2008) ("Filed with Guerra's declaration was an unauthenticated document titled: 'Edmonds.com True Market Value Pricing Report.' The court has not considered this attachment in that it is inadmissible hearsay[.]"). Second, the motion states that the valuation is a "private party" value. This is the value in which a private party, who is not a retailer, could buy or sell a car. The standard here must be a retail valuation, taking into account the condition of the car. *See* 11 U.S.C. § 506(a).

In the Chapter 13 context, the replacement value of personal property used by debtors for personal, household or family purposes is “the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.” See 11 U.S.C. § 506(a)(2). The time value is determined is the date of filing of the petition without deduction for costs of sale or marketing. *Id.*

The Debtor has not persuaded the court regarding her position for the value of the Vehicle. The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a)

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is denied without prejudice.

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

The court will issue an order.

2. [20-21602](#)-B-13 JOSE/LETICIA GONZALEZ MOTION TO MODIFY PLAN  
[GSJ](#)-6 Grace S. Johnson 4-7-24 [[140](#)]

**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.

Creditor Lakeview Loan Servicing, LLC ("Creditor") objects to plan confirmation on grounds that the fifth modified plan does not provide for the correct monthly mortgage payment. Debtors' plan lists an ongoing mortgage payment to Creditor in Class 1 as \$2,321.43. However, based on Claim No 7-1, a Notice of Mortgage Payment Change was filed on August 23, 2023, reflecting a mortgage payment of \$2,478.24 effective October 1, 2023.

Based on Debtors' proposed monthly plan payment and their monthly net income from amended Schedule J filed April 7, 2024, Debtors do not appear to be able to increase their monthly plan payment to cover the mortgage payment difference of \$156.81.

Given the aforementioned, 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.

3. [24-21113](#)-B-13 LAUREANO/ALONA TABAJEN OBJECTION TO CONFIRMATION OF  
[LGT](#)-1 Gregory J. Smith PLAN BY LILIAN G. TSANG  
5-22-24 [[23](#)]

CONTINUED TO 7/02/24 AT 1:00 P.M. AT SACRAMENTO COURTROOM TO BE HEARD AFTER THE  
CONTINUED MEETING OF CREDITORS SET FOR 6/26/24.

## Final Ruling

No appearance at the June 11, 2024, hearing is required. The court will issue an order.

4. [23-24330](#)-B-13 DAVID YBARRA  
[PGM](#)-3 Peter G. Macaluso

MOTION TO CONFIRM PLAN  
5-1-24 [[55](#)]

### **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 objects to plan confirmation on grounds that the plan is not feasible as proposed. Monthly plan payments to secured creditors plus the Trustee's compensation and expense total \$4,979.14 per month. Debtor's plan proposes only \$4,850.00 for months 1 through 3, and \$4,930.00 thereafter.

Debtor filed a response stating that he agrees to correct the monthly payment to \$4,979.14 for 60 months.

Given the above change, 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. 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. [23-21635](#)-B-13 DEBRA MAGHONEY  
[PGM](#)-3 Peter G. Macaluso

MOTION TO MODIFY PLAN  
5-2-24 [[57](#)]

**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 Debtor has 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. 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.

6.     [24-21266](#)-B-13   LANA CHURCHILL                                 OBJECTION TO CONFIRMATION OF  
          [JCW](#)-1                 Gregory J. Smith                                 PLAN BY U.S. BANK NATIONAL  
          Thru #7   ASSOCIATION  
   5-22-24 [[33](#)]

CONTINUED TO 6/18/24 AT 1:00 P.M. AT SACRAMENTO COURTROOM TO BE HEARD IN CONJUNCTION WITH DEBTOR'S MOTION TO VALUE COLLATERAL.

**Final Ruling**

No appearance at the June 11, 2024, hearing is required. The court will issue an order.

7.     [24-21266](#)-B-13   LANA CHURCHILL                                 OBJECTION TO CONFIRMATION OF  
          [LGT](#)-1                 Gregory J. Smith                                 PLAN BY LILIAN G. TSANG  
   5-22-24 [[29](#)]

CONTINUED TO 6/18/24 AT 1:00 P.M. AT SACRAMENTO COURTROOM TO BE HEARD IN CONJUNCTION WITH DEBTOR'S MOTION TO VALUE COLLATERAL.

**Final Ruling**

No appearance at the June 11, 2024, hearing is required. The court will issue an order.



8. [23-20088](#)-B-13 SON/SAU NGUYEN  
[AVN](#)-3 Anh V. Nguyen

MOTION TO MODIFY PLAN  
5-2-24 [[62](#)]

### **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. 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.