

**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: July 2, 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.

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Sacramento, California

July 2, 2024 at 1:00 p.m.

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

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 has been filed to the objection.

All objections have been resolved and the court has determined that oral argument is not necessary. See Local Bankr. R. 1001-1(f), 9014-1(h). This matter will be decided on the papers. No appearance at the hearing is necessary.

The court's decision is to overrule the objection and confirm the plan.

The Chapter 13 Trustee objects to confirmation on grounds that the meeting of creditors has been continued and has not been concluded. Debtors appeared at the continued meeting of creditors on June 26, 2024, and the meeting was concluded.

The plan complies with 11 U.S.C. §§ 1322 and 1325(a). The objection is overruled and the plan filed March 21, 2024, is confirmed.

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

IT IS FURTHER ORDERED that the plan is CONFIRMED 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.

2. [23-23733](#)-B-13 OLIVER/DINAH JARATA
[DFH](#)-3 Drew Henwood

MOTION TO CONFIRM PLAN
5-17-24 [[69](#)]

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 Debtors have 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. 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.

3. [23-21840](#)-B-13 NICOLE CASTILLO MOTION TO SELL
 [DAB](#)-2 David A. Boone 6-14-24 [[52](#)]

CONTINUED TO 7/16/24 AT 1:00 P.M. AT THE SACRAMENTO COURTROOM. DEBTOR SHALL SUBMIT ADDITIONAL BRIEFING BY 7/09/24 EXPLAINING THE "\$10,000 PAYMENT TO AN UNSECURED LIEN TO BANKRUPTCY COURT" AND THE ARM'S LENGTH TRANSACTION OF THE PROPOSED SALE, AND THE CHAPTER 13 TRUSTEE SHALL FILE A SUPPLEMENTAL REPLY BY 7/12/24.

Final Ruling

No appearance at the July 2, 2024, hearing is required. The court will issue an order.

4. [24-21445](#)-B-13 NINEFF KOOCHOU OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Kathleen H. Crist PLAN BY LILIAN G. TSANG
[Thru #5](#) 6-5-24 [[21](#)]

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 Debtors filed an amended plan on June 25, 2024. The confirmation hearing for the amended plan is scheduled for August 20, 2024. The earlier plan filed April 8, 2024, is not confirmed.

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

The court will issue an order.

5. [24-21445](#)-B-13 NINEFF KOOCHOU OBJECTION TO CONFIRMATION OF
[RAS](#)-1 Kathleen H. Crist PLAN BY WELLS FARGO BANK,
NATIONAL ASSOCIATION
5-30-24 [[18](#)]

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 Debtors filed an amended plan on June 25, 2024. The confirmation hearing for the amended plan is scheduled for August 20, 2024. The earlier plan filed April 8, 2024, is not confirmed.

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

The court will issue an order.

6. [24-21452](#)-B-13 JUAN ABARCA AND THERESA DOMINGUEZ-ABARCA
[LGT](#)-1
Thru #7 Lars Fuller

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
6-3-24 [[18](#)]

Final Ruling

The *initial* Chapter 13 Plan filed April 9, 2024, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to July 9, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtors' Voluntary Petition lists their home address as 1832 Pissaro Court; however, all schedules and the plan list 1833 Pissaro Court. According to Debtors' testimony at the meeting of creditors held on May 29, 2024, the correct address is 1833 Pissaro Court. The petition must be amended.

Second, Section 3.06 fails to list an attorney fee dividend. The attorney fee dividend will need to be \$108.33 per month to comply with Local Rule 2016-1(c)(4)(B).

Third, the plan proposes to pay 0% to general unsecured creditors. Taking into account Debtors' non-exempt equity and after deducting the trustee's fees of \$960.58, liquidation requires \$2,881.75. The plan is not meeting liquidation. The percentage to the unsecured creditors must be increased to 5.04%. 11 U.S.C. § 1325(a)(4).

Fourth, the plan will take 67.64 months to fund at a monthly plan payment of \$850.00. The Debtors have failed to provide admissible evidence that the plan is mathematically feasible. The Chapter 13 Trustee's calculations indicate that, in order to resolve the plan funding over-term, adding the attorney fee monthly dividend, and providing for the liquidation requirement, Debtors' plan payment will need to be \$1,002.38 per month for the plan term of 60 months to be feasible. Schedule J does not support this increase.

The plan filed April 9, 2024, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), party in interest shall have until 5:00 p.m. on July 5, 2024, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtors, the Debtors' attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on July 9, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on July 9, 2024, at 1:00 p.m.

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

The court will issue an order.

7. [24-21452](#)-B-13 JUAN ABARCA AND THERESA OBJECTION TO CONFIRMATION OF
 [SKI](#)-1 DOMINGUEZ-ABARCA PLAN BY FLAGSHIP CREDIT
 Lars Fuller ACCEPTANCE LLC
 6-4-24 [[23](#)]

Final Ruling

The *initial* Chapter 13 Plan filed April 9, 2024, having been deemed not confirmable at Item #6, LGT-1, the objection to confirmation by Flagship Credit Acceptance LLC is overruled as moot.

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

The court will issue an order.

8. [24-21561](#)-B-13 RONALD PERRIN AND YUVETTA OBJECTION TO CONFIRMATION OF
[RDW](#)-1 PRYOR PLAN BY PAUL J. NEWMAN TRUST
G. Michael Williams DATED 10/7/1992 AND RESTATED
5/30/2013
6-5-24 [[31](#)]

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 objection to confirmation, the Debtors filed an amended plan on June 20, 2024. The confirmation hearing date has yet to be scheduled. Nonetheless, the earlier plan filed May 14, 2024, is not confirmed.

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

The court will issue an order.

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). Opposition and a response were 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 grant the motion for compensation.

Fees and Costs Requested

Muoi Chea ("Movant"), the attorney to Chapter 13 Debtor Mokneta Murray, makes her first application for the allowance of \$5,000.00 in additional fees and \$0.00 in expenses. Movant received a retainer of \$1,000.00 total. The Debtor has opted out of the Guidelines. The period for which the fees are requested is for June 16, 2023, through May 16, 2024.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

Here, Movant's services in the relevant period included both pre- and post-confirmation work. Movant states that the fees and costs previously allowed are not sufficient to compensate her for the legal services rendered. After exercising reasonable billing judgment, the reasonable fees and costs for services rendered would be \$6,400.00. However, Movant is requesting only \$6,000.00 (\$5,000 plus the \$1,000 retainer).

The Chapter 13 Trustee filed a response stating that there are insufficient funds to disburse attorney's fees in June, but that language in the order granting the motion can rectify this issue by stating attorney's fees are to be paid \$153.00 per month starting July 2024 until the attorney's fees are paid in full. Movant is amenable to this language.

The court finds that the compensation sought is reasonable, actual, and necessary, and the court will approve the motion.

Movant is allowed, and the Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Additional Fees	\$5,000.00
Additional Costs and Expenses	\$0.00

The motion is ORDERED GRANTED for additional fees of \$5,000.00 and additional costs and expenses of \$0.00.

IT IS FURTHER ORDERED that the attorney's fees are to be paid \$153.00 per month starting July 2024 until the attorney's fees are paid in full.

The court will issue an order.

10. [24-21474](#)-B-13 ERICK LUQUE GUTIERREZ AND OBJECTION TO CONFIRMATION OF
[LGT](#)-1 MARIA SANCHEZ DE LUQUE PLAN BY LILIAN G. TSANG
Robert W. Fong 6-5-24 [[17](#)]

Final Ruling

The *initial* Chapter 13 Plan filed April 10, 2024, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to July 9, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtors have failed to provide the Trustee with Business Documents including six months of profit and loss statements, Business Case Questionnaire, and copies of Debtors' liability riders and workers' compensation riders, if applicable, for Debtors' business. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). These documents were required 7 days before the date set for the first meeting of creditors, 11 U.S.C. § 521(e)(2)(A)(I).

Second, Debtors and Debtors' attorney have filed a Rights & Responsibilities indicating that payments of attorney fees are to be made pursuant to Local Bankruptcy Rule 2016-1(C) or Debtors' plan but no box has been checked in Section 3.05 of the plan. Therefore, pursuant to Local Bankruptcy Rule 2016-1, Debtors' attorney defaulted to opting-out of the flat fees.

Third, the Attachment to Schedule I, which provides for Debtors' business income and expenses, needs to be filed. Without this document, it cannot be determined whether Debtors' plan is feasible and commits all projected disposable income for the applicable commitment period to Debtors' general unsecured creditors. 11 U.S.C. § 1325(a)(6).

The plan filed April 10, 2024, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), party in interest shall have until 5:00 p.m. on July 5, 2024, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtors, the Debtors' attorney, and/or the attorney for the objecting party by facsimile or email.

If no response is timely filed and served, the objection will be deemed sustained for the reasons stated hereinabove, this ruling will no longer be conditional and will become the court's final decision, and the continued hearing on July 9, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on July 9, 2024, at 1:00 p.m.

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

The court will issue an order.

11. [23-24679](#)-B-13 ERIK LEWELLYN AND
[FWP](#)-3 GEONETTE WOODS
Le'Roy Roberson
LV THE BEST COMPANY LLC VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-24-24 [[43](#)]

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). Non-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 for relief from automatic stay.

LV the Best Company LLC ("Movant") seeks relief from the automatic stay with respect to nonresidential leased premises located at 1700 I Street, Suite 120, Sacramento, California (the "Property"). Movant has provided the Declaration of Jane Desoiza to introduce into evidence the documents upon which it bases the claim and the obligation secured by the Property. Debtors are past due one pre-petition payment in the amount of \$2,823.48, and five post-petition payments totaling \$13,901.88.

Debtors Erik Lewellyn and Geonette Woods ("Debtors") have filed a non-opposition to the motion for relief from automatic stay and state that they have vacated the Property.

The 14-day stay of enforcement under Rule 4001(a)(3) is waived.

No other or additional relief is granted by the court.

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

The court will issue an order.

12. [24-21495](#)-B-13 JOSEPH/JAMEELA BROWN OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Seth L. Hanson PLAN BY LILIAN G. TSANG
6-5-24 [[22](#)]

CONTINUED TO 7/16/24 AT 1:00 P.M. AT SACRAMENTO COURTROOM TO BE HEARD AFTER THE
CONTINUED MEETING OF CREDITORS SET FOR 7/11/24.

Final Ruling

No appearance at the July 2, 2024, hearing is required. The court will issue an order.

13. [24-22299](#)-B-13 ILYA YAGOLNIKOV
[MS-1](#) Mark Shmorgon

MOTION TO VALUE COLLATERAL OF
VW CREDIT, INC.
5-27-24 [[8](#)]

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 value the secured claim of VW Credit, Inc. at \$31,627.00.

Debtor moves to value the secured claim of VW Credit, Inc. ("Creditor"). Debtor is the owner of a 2019 Audi Q7 55 TFSI Prestige Sport Utility 4D ("Vehicle"). The Debtor seeks to value the Vehicle at a replacement value of \$31,627.00 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).

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 lien on the Vehicle's title secures a purchase-money loan incurred in April 2019, which is more than 910 days prior to filing of the petition, to secure a debt owed to Creditor with a balance of approximately \$35,660.00. Therefore, the Creditor's claim secured by a lien on the asset's title is under-collateralized. The Creditor's secured claim is determined to be in the amount of \$31,627.00. See 11 U.S.C. § 506(a). The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a) is granted.

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

The court will issue an order.