

**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: August 8, 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  
Modesto, California

**August 8, 2023 at 1:00 p.m.**

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1. [23-90200](#)-B-13 JAMES/JUDITH HASSAY      OBJECTION TO CONFIRMATION OF  
[CDP](#)-1 Mary D. Anderson      PLAN BY GULF HARBOUR  
**Thru #3**      INVESTMENTS CORPORATION  
6-27-23 [[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). 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.

Objecting creditor Gulf Harbour Investments Corporation holds a deed of trust secured by the Debtors' residence. The creditor has filed a timely proof of claim in which it asserts \$63,529.31 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 plan filed May 22, 2023, 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.

2. [23-90200](#)-B-13 JAMES/JUDITH HASSAY      AMENDED OBJECTION TO  
[CJK](#)-1 Mary D. Anderson      CONFIRMATION OF PLAN BY TOWD  
7-5-23 [[29](#)]  
POINT MORTGAGE TRUST 2017-1

**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).

**August 8, 2023 at 1:00 p.m.**

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.

Objecting creditor TOWD Point Mortgage Trust 2017-1, U.S. Bank National Association, as Indenture Trustee by Select Portoflio Servicing, Inc. as Servicer, holds a first deed of trust secured by the Debtors' residence. The creditor objects to plan confirmation on grounds that the Debtors' treatment of creditor's claim is unclear since it lists the claim in both Class 1 and Class 2. Therefore, the plan cannot be administered and is not feasible. 11 U.S.C. § 1325(a)(6).

The plan filed May 22, 2023, 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.

3. [23-90200](#)-B-13 JAMES/JUDITH HASSAY OBJECTION TO CONFIRMATION OF  
[RDG-1](#) Mary D. Anderson PLAN BY RUSSELL D. GREER  
7-5-23 [[22](#)]

### **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.

Feasibility is contingent upon non-debtor Income Contributions in the amount of \$300.00 per month as reported on Debtors' Schedule I at Line 8h. Debtors have testified that they are not currently receiving the family assistance from their son. Without a declaration from Debtors' son attesting to his willingness and ability to contribute the \$300.00 throughout debtors' plan term, it cannot be determined whether the plan is feasible. 11 U.S.C. §1325(a)(6).

The plan filed May 22, 2023, 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. [22-90417](#)-B-13 RICARDO RAMIREZ RODRIGUEZ OBJECTION TO CLAIM OF US  
[RDG-1](#) Mohammad M. Mokarram DEPARTMENT OF VETERANS AFFAIRS,  
CLAIM NUMBER 12-1  
6-30-23 [[24](#)]

### **Final Ruling**

The objection has been set for hearing on at least 30 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(b)(2). When fewer than 44 days' notice of a hearing is given, parties in interest were not required to file a written response or opposition.

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 **conditionally sustain the objection to Claim No. 12-1 of US Department of Veterans Affairs and continue the matter to August 15, 2023, at 1:00 p.m.**

The Chapter 13 Trustee requests that the court disallow the claim of US Department of Veterans Affairs ("Creditor"), Claim No. 12-1. The claim is asserted to be in the amount of \$121,935.71. The Trustee asserts that the claim has not been timely filed. See Fed. R. Bankr. P. 3002(c). The deadline for filing proofs of claim in this case for all government units was May 9, 2023. The Creditor's claim was filed June 20, 2023.

Section 501(a) of the Bankruptcy Code provides that any creditor may file a proof of claim. "A proof of claim is a written statement setting forth a creditor's claim." Rule 3001(a). If the claim meets the requirements of § 501, the bankruptcy court must then determine whether the claim should be allowed. Section 502(a) provides that a claim is deemed allowed unless a party in interest objects. If such an objection is made, the court shall allow such claim "except to the extent that the proof of claim is not timely filed." See 11 U.S.C. § 502(b)(9).

Federal Rule of Bankruptcy Procedure 3002(c) governs the time for filing proofs of claim in a Chapter 13 case. Rule 9006(b)(3) prohibits the enlargement of time to file a proof of claim under Rule 3002(c) except as provided in one of the circumstances included in Rule 3002(c). *Zidell, Inc. v. Forsch (In re Coastal Alaska Lines, Inc.)*, 920 F.2d 1428, 1432-1433 (9th Cir. 1990) ("We . . . hold that the bankruptcy court cannot enlarge the time for filing a proof of claim unless one of the six situations listed in Rule 3002(c) exists."). No showing has been made that any of those circumstances apply.

The court also notes that the excusable neglect standard does not apply to permit the court to extend the time to file a proof of claim under Rule 3002(c). As the Ninth Circuit stated in *Coastal Alaska*:

Rule 9006(b) plainly allows an extension of the 90-day time limit established by Rule 3002(c) only under the conditions permitted by Rule 3002(c). Rule 3002(c) identifies six circumstances where a late filing is allowed, and excusable neglect is not among them. Thus, the 90-day deadline for filing claims under Rule 3002(c) cannot be extended for excusable neglect.

*Id.* at 1432. In fact, the time for filing claims under Rule 3002(c) cannot be extended for any equitable reason at all. As stated in *Spokane Law Enforcement Credit Union v. Barker (In re Barker)*, 839 F.3d 1189, 1197 (9th Cir. 2016): "[T]he Ninth Circuit has repeatedly held that the deadline to file a proof of claim in a Chapter 13 proceeding is 'rigid' and the bankruptcy court lacks equitable power to extend this deadline after the fact."

In sum, Creditor filed an untimely proof of claim and has not demonstrated any reason

that would permit the court to allow its late-filed proof of claim.

Based on the evidence before the court, the Creditor's claim is disallowed in its entirety as untimely. The objection to the proof of claim is conditionally sustained.

**Conditional Nature of this Ruling**

Because the objection has been filed, set, and served under Local Bankruptcy Rule 3007-1(b)(2), any party in interest shall have until 5:00 p.m. on Friday, August 11, 2023, to file and serve an opposition or other response to the objection. See Local Bankr. R. 3007-1(b)(2). Any opposition or response shall be served on the Chapter 13 Trustee and creditor by facsimile or email.

If no opposition or 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 August 15, 2023, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the objection on August 15, 2023, at 1:00 p.m.

5. [23-90226](#)-B-13 RAUL/BERENISE MORENO  
[RDG](#)-1 Colby D. LaVelle

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
7-17-23 [[19](#)]

### **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.

First, Debtor testified at the meeting of creditors that has had a reduction in his hourly wages and that the information on Debtors' Schedule I is no longer accurate. Until supplemental Schedules I and J are filed, it cannot be determined whether Debtors' plan is feasible. 11 U.S.C. § 1325(a)(6).

Second, Debtors' plan provides for Golden One Credit Union for the 2017 Honda Accord and the 2018 Honda Accord as Class 4 creditors. Class 4 claims mature after the completion of the plan. Golden One Credit Union has filed proofs of claims indicating that the loans will be paid in full within Debtors' 60-month plan term. (Claims 4-1, 3-1) Accordingly, the correct classification of the claims should be a Class 2 creditors, secured claims that mature or will mature before the plan is complete. With the misclassification of the Golden One Credit Union claims, the plan is not feasible. 11 U.S.C. § 1325(a)(6).

The plan filed May 23, 2023, 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.

6. [23-90229](#)-B-13 NATALIE BATES MOTION TO AVOID LIEN OF  
[MSN](#)-1 Mark S. Nelson PORTFOLIO RECOVERY ASSOCIATES,  
Thru #9 LLC  
6-9-23 [[10](#)]

#### **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 grant the motion to avoid judicial lien of Portfolio Recovery Associates, LLC.

This is a request for an order avoiding the judicial lien of Portfolio Recovery Associates, LLC ("Creditor") against the Debtor's property commonly known as 1605 Glenwood Drive, Modesto, California ("Property").

A judgment was entered against Debtor in favor of Creditor in the amount of \$2,035.75. An abstract of judgment was recorded with Stanislaus County on July 16, 2014, which encumbers the Property.

Pursuant to the Debtor's Schedule A, the Property has an approximate value of \$307,000.00 as of the date of the petition. Debtor has claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of \$300,000.00 on Schedule C. All other liens recorded against the Property total \$211,903.18.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the Debtor's exemption of the real property and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

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

The court will issue an order.

7. [23-90229](#)-B-13 NATALIE BATES MOTION TO AVOID LIEN OF  
[MSN](#)-2 Mark S. Nelson PORTFOLIO RECOVERY ASSOCIATES,  
LLC  
6-9-23 [[16](#)]

#### **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 grant the motion to avoid judicial lien of Portfolio Recovery Associates, LLC.

This is a request for an order avoiding the judicial lien of Portfolio Recovery Associates, LLC ("Creditor") against the Debtor's property commonly known as 1605

Glenwood Drive, Modesto, California ("Property").

A judgment was entered against Debtor in favor of Creditor in the amount of \$1,591.19. An abstract of judgment was recorded with Stanislaus County on February 24, 2015, which encumbers the Property.

Pursuant to the Debtor's Schedule A, the Property has an approximate value of \$307,000.00 as of the date of the petition. Debtor has claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of \$300,000.00 on Schedule C. All other liens recorded against the Property total \$211,903.18.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the Debtor's exemption of the real property and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

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

The court will issue an order.

8. [23-90229](#)-B-13 NATALIE BATES MOTION TO AVOID LIEN OF  
[MSN](#)-3 Mark S. Nelson AMERICAN TECHNOLOGIES, INC.  
6-9-23 [[22](#)]

#### **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 grant the motion to avoid mechanics lien of American Technologies, Inc.

This is a request for an order avoiding the mechanics lien of American Technologies, Inc. ("Creditor") against the Debtor's property commonly known as 1605 Glenwood Drive, Modesto, California ("Property").

A judgment was entered against Debtor in favor of Creditor in the amount of \$16,362.28. An abstract of judgment was recorded with Stanislaus County on March 21, 2018, which encumbers the Property.

Pursuant to the Debtor's Schedule A, the Property has an approximate value of \$307,000.00 as of the date of the petition. Debtor has claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.730 in the amount of \$300,000.00 on Schedule C. All other liens recorded against the Property total \$211,903.18.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the Debtor's exemption of the real property and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

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

The court will issue an order.



9. [23-90229](#)-B-13 NATALIE BATES  
[RDG](#)-1 Mark S. Nelson

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
7-17-23 [[32](#)]

### **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.

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.

Feasibility depends on the granting of motions to avoid liens of Portfolio Recovery Associates, LLC and American Technologies, Inc. Those matters were granted at Items 6 through 8. See MSN-1, MSN-2, MSN-3.

The plan complies with 11 U.S.C. §§ 1322 and 1325(a). The objection is overruled and the plan filed May 24, 2023, is confirmed.

The objection is ORDERED OVERRULED 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.

### **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.

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 **conditionally grant the motion for hardship discharge and continue the matter to August 15, 2023, at 1:00 p.m.**

Debtor Thomas Gillis ("Debtor") seeks an order granting a motion for entry of discharge of his Chapter 13 case due to his deteriorating health that has rendered him extremely disabled and no longer able to afford the modest Chapter 13 plan payments. Debtor requests that he be given a hardship discharge as authorized by 11 U.S.C. § 1328(b).

### **Discussion**

After confirmation of a plan, circumstances may arise that prevent a debtor from completing a plan of reorganization. In such situations, the debtor may ask the court to grant a "hardship discharge." 11 U.S.C. § 1328(b). Generally, such a discharge is available only if: (b)(1) the debtor's failure to complete plan payments is due to circumstances beyond the debtor's control and through no fault of the debtor; (b)(2) creditors have received at least as much as they would have received in a chapter 7 liquidation case; and (b)(3) modification of the plan is not possible under 11 U.S.C. § 1329. 11 U.S.C. § 1328(b)(1)-(3).

Here, the Debtor has satisfied 11 U.S.C. § 1328(b)(1)-(3). First, Debtor's failure to complete plan payments is due to his deteriorated health rendering him incapable of working as a bankruptcy attorney, his reliance on Social Security retirement benefits and modest wages from employer Mark O'Toole, and the increase in personal expenses that his medical condition dictates. Second, Debtor satisfies the liquidation test because his only assets - old cars and old office equipment - are fully exempt by use of the wildcard. Lastly, modification of the plan is not possible since the current plan is already a 60-month term and accelerating the term will only result in higher, not lower, monthly payments that the Debtor cannot afford.

The court grants the motion and the clerk of the court shall issue a discharge pursuant to 11 U.S.C. § 1328(b).

### **Conditional Nature of this Ruling**

Because the objection has been filed, set, and served under Local Bankruptcy Rule 3007-1(b)(2), any party in interest shall have until 5:00 p.m. on Friday, August 11, 2023, to file and serve an opposition or other response to the objection. See Local Bankr. R. 3007-1(b)(2). Any opposition or response shall be served on the Chapter 13 Trustee and creditor by facsimile or email.

If no opposition or 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 August 15, 2023, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the objection on August 15, 2023, at 1:00 p.m.

11. [23-90243](#)-B-13 NICOLE DAMIN OBJECTION TO CONFIRMATION OF  
[RDG](#)-1 Simran Singh Hundal PLAN BY RUSSELL D. GREER  
7-18-23 [[33](#)]

CONTINUED TO 9/19/23 AT 1:00 P.M. TO BE HEARD IN CONJUNCTION WITH THE MOTION TO AVOID JUDICIAL LIEN OF CHRISTOPHER LLOYD DAMIN.

**Final Ruling**

No appearance at the August 8, 2023, hearing is required. The court will issue an order.

12. [23-90250](#)-B-13 THIPPHASONE SYSAMOUTH  
[RMP](#)-1 Simran Singh Hundal

OBJECTION TO CONFIRMATION OF  
PLAN BY U.S. BANK NATIONAL  
ASSOCIATION  
7-18-23 [[12](#)]

**Final Ruling**

Creditor U.S. Bank National Association having filed a withdrawal of its objection, the objection is dismissed without prejudice pursuant to Federal Rule of Civil Procedure or 41(a)(2) 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 May 31, 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.

13. [23-90251](#)-B-13 BENNY CHAVEZ  
[RDG](#)-1 Simran Singh Hundal

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
7-13-23 [[16](#)]

CONTINUED TO 8/15/23 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS  
SET FOR 8/09/23.

**Final Ruling**

No appearance at the August 8, 2023, hearing is required. The court will issue an  
order.

14. [23-90054](#)-B-13 RYAN/SUSAN LANE MOTION TO CONFIRM PLAN  
[SSH](#)-1 Simran Singh Hundal 6-21-23 [[35](#)]

DEBTORS DISMISSED: 7/13/23

**Final Ruling**

The case having been dismissed on July 13, 2023, the motion to confirm plan is denied as moot.

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

The court will issue an order.

15. [19-90660](#)-B-13 VERONICA ORTEGA  
[CLB](#)-1 Richard Kwun

MOTION FOR RELIEF FROM  
AUTOMATIC STAY AND/OR MOTION  
FOR RELIEF FROM CO-DEBTOR STAY  
7-3-23 [[47](#)]

U.S. BANK NA VS.

WITHDRAWN BY M. P.

**Final Ruling**

Creditor U.S. Bank NA having filed a notice of withdrawal of its motion, the motion is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

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

The court will issue an order.

**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 first amended plan.

First, the proposed sale of Debtors' residence is speculative. Indeed, the sale referenced in Debtors' application to sell on June 14, 2023, fell through and there is no prospective buyer in place.

Second, the amended plan proposes a 7.75% interest rate, which the court already found to be inappropriate given that the current prime rate is 8.25%. *Bonds, Rates & Credit Markets: Consumer Money Rates*, *Wall St. J.*, May 26, 2023, [http://online.wsj.com/mdc/public/page/mdc\\_bonds.html](http://online.wsj.com/mdc/public/page/mdc_bonds.html). The court found that an interest rate of 9.75% to be appropriate given the greater risk of default posed by the Debtors. See *dk. 29*. Furthermore, the court stated in its ruling that if any party disputes the interest rate, it may request an evidentiary hearing in either the subsequent motion to confirm or any opposition/objection thereto. The Debtors did not request an evidentiary hearing in their motion to confirm.

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.



17. [21-90191](#)-B-13 JOSEPH CALDERON  
[JCW](#)-1 Mark Shmorgon

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
6-28-23 [[58](#)]

HSBC BANK USA, NATIONAL  
ASSOCIATION VS.

**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 was filed by the Debtor and a response was filed by the Chapter 13 Trustee.

This matter will be **continued to September 5, 2023, at 1:00 p.m.** to provide creditor HSBC Bank USA, National Association time to review and confirm the funds distributed to it by The California Mortgage Relief Program. Creditor shall file a supplemental reply by August 22, 2023, and the Debtor shall file a supplemental reply by August 29, 2023.

The court will issue an order.