

**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 13, 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
Modesto, California

August 13, 2024 at 1:00 p.m.

-
1. [19-91123](#)-B-13 JEREMY YOUNG AND MICHELLE MOTION TO MODIFY PLAN
 [DCJ](#)-3 ROSE 6-16-24 [[82](#)]
 David C. Johnston

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.

August 13, 2024 at 1:00 p.m.

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2. [24-90142](#)-B-13 RUBEN MORENO
[JDS](#)-2 Simran Singh Hundal
Add on #9

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-21-24 [[23](#)]

BMO BANK N.A. VS.

Final Ruling

Creditor BMO Bank N.A. having filed a notice of withdrawal of its motion, the motion 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.

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

3. [24-90058](#)-B-13 BUNDY FRANCIS
[TLA](#)-2 Thomas L. Amberg

MOTION TO MODIFY PLAN
7-1-24 [[37](#)]

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 and has also filed a supplemental response proposing to add language in the order confirming. No opposition to the motion or supplemental response 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.

4. [24-90258](#)-B-13 SERAFIN TOVAR FLORES OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Seth L. Hanson PLAN BY LILIAN G. TSANG
Thru #5 7-2-24 [[13](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankr. R. 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 Bankr. R. 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 a motion to value collateral of HAPO Community Credit Union. That motion to is granted at Item #5, SLH-1.

The plan complies with 11 U.S.C. §§ 1322 and 1325(a). The objection is overruled and the plan filed May 16, 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.

5. [24-90258](#)-B-13 SERAFIN TOVAR FLORES MOTION TO VALUE COLLATERAL OF
[SLH](#)-1 Seth L. Hanson HAPO COMMUNITY CREDIT UNION
7-5-24 [[17](#)]

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 HAPO Community Credit Union at \$42,828.00.

Debtor moves to value the secured claim of HAPO Community Credit Union ("Creditor"). Debtor is the owner of a 2018 Ford F-350 ("Vehicle"). The Debtor seeks to value the Vehicle at a replacement value of \$42,828.00 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).

Proof of Claim Filed

The court has reviewed the Claims Registry for this bankruptcy case. Claim No. 4-1 filed by HAPO Community Credit Union is the claim which may be the subject of the

present motion.

Discussion

The lien on the Vehicle's title secures a purchase-money loan incurred on August 2021, which is more than 910 days prior to filing of the petition, to secure a debt owed to Creditor with a balance of approximately \$62,881.45. 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 \$42,828.00. 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.

6. [24-90167](#)-B-13 CHRISTINA TAFURI CONTINUED OBJECTION TO
[LGT](#)-1 Peter G. Macaluso CONFIRMATION OF PLAN BY LILIAN
DEBTOR DISMISSED: 07/12/24 G. TSANG
5-16-24 [[37](#)]

Final Ruling

The case having been dismissed on July 12, 2024, the continued objection to confirmation is overruled as moot.

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

The court will issue an order.

7. [20-90768](#)-B-13 JUAN/HEIDI RUIZ
[CLB](#)-1 Simran Singh Hundal

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-27-24 [[90](#)]

TOWD POINT MORTGAGE TRUST
2017-FRE2 VS.

CONTINUED TO 9/17/24 AT 1:00 P.M. AT MODESTO COURTROOM PER ORDER GRANTING STIPULATION
TO CONTINUE THE HEARING. DKT. 104.

Final Ruling

No appearance at the August 13, 2024, hearing is required. The court will issue an
order.

8. [23-90377](#)-B-13 GUSTAVO JIMENEZ
[CLH](#)-2 Charles L. Hastings

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF HASTINGS & RON
DEBTORS ATTORNEY(S)
7-16-24 [[67](#)]

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 without prejudice the motion for compensation.

Debtor's counsel Charles Hastings ("Counsel") seek compensation in the amount of \$2,716.25. However, Counsel states that as of the date of the petition, he was already paid \$4,087.23 toward fees and costs incurred as of that date and that the Debtor and counsel had agreed that the Debtor would deposit \$7,500 into counsel's client trust account to be used toward fees and costs.

This appears to contradict the plan filed August 16, 2023, and confirmed on March 18, 2024. The plan (dkt. 3) states at Line 3.05 that Debtor's attorney of record was paid \$0.00 prior to the filing of the case and that \$0.00 shall be paid through the plan. It also contradicts the Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys (dkt. 5) that states initial fees charged in this case are \$0.00 and, of this amount, \$0.00 was paid by the Debtor before the filing of the petition.

So, at the time the petition was filed, either the Debtor paid \$0.00 to Counsel or the Debtor paid \$4,087.23 from the \$7,500 deposited into Counsel's client trust account. Furthermore, if counsel was already paid \$4,087.23, this would violate Local Rule 2016-1(c)(3), which states, "Attorneys who claim fees under subdivision (c) shall not seek, nor accept, a retainer greater than the sum of (A) 25% of the fee specified in subdivision (c)(1)" The payment of \$4,087.23 is 54.5% of \$7,500.

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

It is FURTHER ORDERED that any re-filed motion shall provide an accurate accounting of all attorney's compensation received to date, which includes: (1) the amount received; (2) the date of receipt; and (3) the source of payment.

It is FURTHER ORDERED that any compensation that counsel received from the Debtor prepetition, if any, shall be returned to the Debtor and proof of the returned compensation shall be filed with the court by 5:00 p.m. on August 16, 2024.

It is FURTHER ORDERED that counsel shall receive no compensation from the Debtor or anyone else in this case absent further order of the court. All further requests for compensation shall be made under 11 U.S.C. § 330 by noticed motion.

9. [24-90142](#)-B-13 RUBEN MORENO
[LGT](#)-1 Simran Singh Hundal
See also #2

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY LILIAN
G. TSANG
5-22-24 [[17](#)]

Final Ruling

Trustee having filed a notice of withdrawal of its motion, the motion 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.

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