

**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: August 17, 2021

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

August 17, 2021 at 1:00 p.m.

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1. [21-22106](#)-B-13 CHERI GRAY MOTION TO AVOID LIEN OF CREDIT
[PGM](#)-1 Peter G. Macaluso BUREAU OF STOCKTON
Thru #2 7-19-21 [[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 deny without prejudice the motion to avoid judicial lien.

This is a request for an order avoiding the judicial lien of Credit Bureau of Stockton ("Creditor") against the Debtor's property commonly known as 445 Almond Drive #69, Lodi, California ("Property").

A renewed judgment was entered against Debtor in favor of Creditor in the amount of \$26,530.70. An abstract of judgment was recorded with San Joaquin County on May 26, 2021, which encumbers the Property.

Pursuant to the Debtor's Schedule A, the Property has an approximate value of \$151,000.00 as of the date of the petition. Debtor has claimed an exemption pursuant to Cal. Civ. Proc. Code § 704.950 on Schedule C but pursuant to Cal. Civ. Proc. Code § 704.140(b)(5) as stated in her declaration. Because there is an inconsistency in the exemption sought, the judicial lien is not avoided.

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

The court will issue an order.

2. [21-22106](#)-B-13 CHERI GRAY OBJECTION TO CONFIRMATION OF
[RDG](#)-1 Peter G. Macaluso PLAN BY RUSSELL D. GREER,
CHAPTER 13 TRUSTEE
7-28-21 [[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). 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.

August 17, 2021 at 1:00 p.m.

Subsequent to the filing of the Trustee's objection, the Debtor filed an amended plan on July 28, 2021. The confirmation hearing for the amended plan is scheduled for September 7, 2021. The earlier plan filed June 4, 2021, 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 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.

First, Debtor includes a Section 7 Nonstandard Provisions in the plan but does not select Section 1.02 indicating that there is a nonstandard provision that should be given effect. Feasibility of the plan cannot be determined pursuant to 11 U.S.C. § 1325(a)(6).

Second, Debtor has failed to file supplemental Schedules I and/or J to support Section 7 of the plan, which states that plan payments are to be \$60.00 for 36 months then \$329.0 for the remainder of the plan. Feasibility of the plan cannot be determined pursuant to 11 U.S.C. § 1325(a)(6).

Third, Debtor is delinquent in the amount of \$114.00 under the proposed plan. The Debtor has remitted only a total of \$1,986.00. All sums required by the plan have not been paid pursuant to 11 U.S.C. § 1325(a)(2).

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.

4. [21-21966](#)-B-13 EDSON/GENEALYN DELSOCORA OBJECTION TO CONFIRMATION OF
[RDG](#)-1 Jessica A. Dorn PLAN BY RUSSELL D. GREER
7-28-21 [[30](#)]

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.

The court has also 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 overrule the objection and confirm the plan.

First, Debtors appeared at the continued meeting of creditors held August 4, 2021. The meeting was concluded as to the Debtors.

Second, Debtors filed amended schedules to reflect the change in exemption amount for their Bank of America checking account. Debtors no longer utilize California Code of Civil Procedure § 704.220 but rather § 704.070.

Third, Debtors state in their response that the \$150.00 monthly expense is for pull-ups for their four-year-old son, and that they financially support their parents who are new to the country and live with them. Debtors state that they have already made their first two plan payments, which show that they can financially afford the monthly plan payment.

The plan complies with 11 U.S.C. §§ 1322 and 1325(a). The objection is overruled and the plan filed May 27, 2021 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 Debtors 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.

5. [11-49867](#)-B-13 GABRIEL/MARIA TAURO
[21-2034](#)
TAURO ET AL V. U.S. BANK N.A
Thru #6

MOTION FOR ENTRY OF DEFAULT
JUDGMENT
6-29-21 [[11](#)]

CONTINUED TO 10/19/21 AT 1:00 P.M. PER STIPULATION AND ORDER ENTERED
8/04/21.

Final Ruling

No appearance at the August 17, 2021, hearing is required. The court will enter a
minute order.

6. [11-49867](#)-B-13 GABRIEL/MARIA TAURO
[21-2034](#)
TAURO ET AL V. U.S. BANK N.A

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
5-20-21 [[1](#)]

CONTINUED TO 10/19/21 AT 1:00 P.M. PER STIPULATION AND ORDER ENTERED
8/04/21.

Final Ruling

No appearance at the August 17, 2021, hearing is required. The court will enter a
minute order.

7. [20-25678](#)-B-13 JOSE GRACIA
[GSJ](#)-2 Grace S. Johnson

MOTION TO CONFIRM PLAN
7-30-21 [[54](#)]

CONTINUED TO 9/14/2021 AT 1:00 P.M.

Final Ruling

No appearance at the August 17, 2021, hearing is required. The court will enter a minute order.

8. [21-22483](#)-B-13 HAROLD/KATHY NORMAN
[JCK](#)-1 Gregory J. Smith

MOTION TO VALUE COLLATERAL OF
SYSTEMS & SERVICES
TECHNOLOGIES, INC
7-12-21 [[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). Opposition was filed.

The court has also 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 **continue the matter to August 24, 2021, at 1:00 p.m.**

Debtors move to value the secured claim of Systems & Services Technologies, Inc. ("Creditor"). Debtors are the owner of a 2017 Shadow Cruiser 26' RV ("Vehicle"). The Debtors seek to value the Vehicle at a replacement value of \$14,000.00 as of the petition filing date. As the owner, Debtors' 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).

Creditor filed an opposition stating that the value of the Vehicle is \$24,450.00 and requests that the hearing be continued so that it can obtain an appraisal or other expert evaluation of the Vehicle. The Creditor also filed proof of claim no. 1-1.

The matter will be continued to August 24, 2021, at 1:00 p.m. to provide the Creditor the opportunity to obtain an appraisal or similar expert evaluation to value the Vehicle.

The court will issue an order.

9. [20-23782](#)-B-13 LAWRENCE/JENNY BOLDON CONTINUED OBJECTION TO CLAIM OF
[RDG](#)-3 Brian S. Haddix ROCKY TOP RENTALS, LLC, CLAIM
NUMBER 40
7-7-21 [[126](#)]

Final Ruling

This matter was continued from August 10, 2021, to allow any party in interest to file and serve a response by 5:00 p.m. on Friday, August 13, 2021. No response was filed. Therefore, the conditional ruling at dkt. 137 shall become the court's final decision. The continued hearing on August 17, 2021, at 1:00 p.m. is vacated.

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

The court will issue an order.