



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

August 20, 2024 at 1:30 p.m.

Unless otherwise ordered, all matters before the Honorable Christopher M. Klein shall be simultaneously: (1) **In Person**, at Sacramento Courtroom #35, (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**.

You may choose any of these options unless otherwise ordered or stated below.

All parties who wish to appear at a hearing remotely must sign up by 4:00 p.m. **one business day** prior to the hearing. Information regarding how to sign up can be found on the **Remote Appearances** page of our website at <https://www.caeb.uscourts.gov/Calendar/RemoteAppearances>. Each party who has signed up will receive a Zoom link or phone number, meeting I.D., and password via e-mail.

If the deadline to sign up has passed, parties who wish to appear remotely must contact the Courtroom Deputy for the Department holding the hearing.

Please also note the following:

- Parties in interest may connect to the video or audio feed free of charge and should select which method they will use to appear when signing up.
- Members of the public and the press appearing by ZoomGov may only listen in to the hearing using the zoom telephone number. Video appearances are not permitted.
- Members of the public and the press may not listen in to trials or evidentiary hearings, though they may appear in person in most instances.

To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

If you are appearing by ZoomGov phone or video, please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

Unauthorized Recording is Prohibited: Any recording of a court proceeding held by video or teleconference, including "screen shots" or other audio or visual copying of a hearing is prohibited. Violation may result in sanctions, including removal of court-issued medical credentials, denial of entry to future hearings, or any other sanctions deemed necessary by the court. For more information on photographing, recording, or broadcasting Judicial Proceedings, please refer to Local Rule 173(a) of the United States District Court for the Eastern District of California.

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

August 20, 2024 at 1:30 p.m.

- | | | | |
|----|--------------------------------|------------------------|---------------------------------|
| 1. | 24-22211 -C-13 | ASHLY BONILLA AND ERIC | OBJECTION TO CONFIRMATION OF |
| | LGT -1 | BONILLA AYERDIS | PLAN BY TRUSTEE LILIAN G. TSANG |
| | | Mikalah Liviakis | 7-18-24 [18] |

Final Ruling: No appearance at the August 20, 2024 hearing is required.

The movant having filed a Notice of Dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041, **the Motion was dismissed without a court order, and the matter is removed from the calendar.**

2. [23-24524](#)-C-13 RUNXIU WANG
[AVN](#)-2 Anh Nguyen

MOTION TO CONFIRM PLAN
7-12-24 [[42](#)]

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f) (1) procedure which requires 35 days' notice. The Proof of Service shows that 39 days' notice was provided. Dkt. 48.

The Motion to Confirm is ~~XXXXXXXXXX~~

The debtor filed this Motion seeking to confirm the Chapter 13 Plan (Dkt. 45) filed on July 12, 2024.

Creditor, 626 Jackson Street, LLC, filed an Opposition and Objection to Confirmation (Dkt. 50) on August 6, 2024, opposing confirmation on the following grounds:

1. Debtor has not honestly or accurately completed her statements or schedules;
2. Debtor fails to apply all disposable income;
3. Plan misclassifies Wells Fargo as a secured creditor; and
4. Debtor understates her assets.

DISCUSSION

At the hearing ~~XXXXXXXXXX~~

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Confirm filed by the debtor, Runxiu Wang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is ~~XXXXXXXXXX~~

3. [24-22229](#)-C-13 BENJAMEN VERMA
[KMT](#)-1 Peter Macaluso

OBJECTION TO CONFIRMATION OF
PLAN BY BARRY W. MORSE, INC.
7-18-24 [[23](#)]

Thru #4

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 38 days' notice was provided. Dkt. 28.

The Objection to Confirmation of Plan is sustained.

Creditor Barry W. Morse, Inc. ("Creditor") opposes confirmation of the Chapter 13 plan on the basis that:

1. The plan is not feasible;
2. The plan does not provide for all of Debtor's disposable income;
3. Debtor improperly seeks to modify Creditor's loan; and
4. The adjusted interest rate on Creditor's loan is too low.

DISCUSSION

The adjustment of the interest rate on the loan is an improper modification of a claim secured only by a security interest in real property that is the debtor's principal residence. That is reason to deny confirmation. 11 U.S.C. § 1322(b)(2).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by Barry W. Morse, Inc., having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

4. [24-22229](#)-C-13 BENJAMEN VERMA
[LGT-1](#) Peter Macaluso

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
7-15-24 [[19](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 36 days' notice was provided. Dkt. 22.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, Lilian Tsang ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The Meeting of Creditors has not concluded;

DISCUSSION

A review of the docket shows that debtor and counsel appeared at the continued meeting of creditor on August 12, but that the meeting has been continued to September 5, 2024. Until the Meeting of Creditors has concluded and all information has been provided to the Chapter 13 Trustee, the court cannot confirm a plan. 11 U.S.C. § 1325(a)(1).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Lilian Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

5. [24-22386](#)-C-13 HEATHER GIRARD
[LGT-1](#) Richard Jare

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
7-18-24 [[17](#)]

Tentative Ruling:

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 33 days' notice was provided. Dkt. 20.

The Objection to Confirmation of Plan is sustained.

The Chapter 13 Trustee, Lilian Tsang ("Trustee"), opposes confirmation of the Chapter 13 plan on the basis that:

1. The Meeting of Creditors has not yet concluded;
2. Attorney's fees are not in compliance with Local Rule 2016-1(c)(4)(B).
3. The amount of Debtor's claimed homestead exemption exceeds the statutory maximum amount;
4. Debtor has not amended her monthly income to accurately reflect her current budget;
5. Debtor has not provided the additional documents requested by the Trustee.

DISCUSSION

A review of the docket shows that debtor and counsel appeared at the continued meeting of creditor on July 12, but that the meeting has been continued to August 22, 2024. Until the Meeting of Creditors has concluded and all information has been provided to the Chapter 13 Trustee, the court cannot confirm a plan. 11 U.S.C. § 1325(a)(1).

Local Rule 2016-1(c)(4)(B) states that the Chapter 13 trustee shall pay debtor's counsel equal monthly installments over the term of the plan. The plan's provision to pay in monthly dividend of \$250.00 does not follow the local rule on payment of counsel's fees, this is reason to deny confirmation.

The debtor may have non-exempt assets because she is currently claiming a homestead exemption greater than allowed by California law. That is cause to deny confirmation. 11 U.S.C. § 1325(a)(4).

That is reason to deny confirmation. Therefore, the Objection is sustained.

The court shall issue a minute order substantially in the following form

holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the Chapter 13 Trustee, Lilian Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is sustained.

6. [23-22088](#)-C-13 LISA HOOKS
[FF-2](#) Gary Fraley

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF FRALEY & FRALEY,
P.C. FOR GARY RAY FRALEY,
DEBTORS ATTORNEY(S)
7-16-24 [[53](#)]

Final Ruling: No appearance at the August 20, 2024 hearing is required.

The movant having filed a Notice of Dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041, **the Motion was dismissed without a court order, and the matter is removed from the calendar.**

7. [22-20492](#)-C-13 GENEROSA DIZON
[LGT-1](#) Lewis Phon

CONTINUED MOTION TO PAY
4-2-24 [[290](#)]

DEBTOR DISMISSED: 03/14/24

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 14 days' notice was provided. Dkt. 294.

The Motion Directing Payment is ~~XXXXXXXXXX~~.

The Chapter 13 Trustee, Lilian Tsang, ("Trustee") moves for an order directing payment of the balance of funds being held by the Trustee in the amount of \$17,591.00 in this unconfirmed dismissed Chapter 13 case.

Creditor, Jennine C. Banayat, opposes the Trustee's motion to the extent it seeks to return the funds to the debtor. Creditor asserts that 11 U.S.C. § 349(b) reverts the property in the debtor upon dismissal of the case. Further, 11 U.S.C. § 362(c) lifts the automatic stay at the time the case is dismissed and at that point the levy under California Code of Civil Procedure § 699.510 becomes applicable and requires the Trustee to pay the County Sheriff.

APPLICABLE LAW

Pursuant to 11 U.S.C. § 1326(a)(2), if a plan is not confirmed, the Trustee shall return any such payments not previously paid and not yet due and owing to creditors to the debtor.

DISCUSSION

At the hearing ~~XXXXXXXXXX~~

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion Directing Payment by the Chapter 13 Trustee, Lilian Tsang, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is ~~XXXXXXXXXX~~

8. [22-20492](#)-C-13 GENEROSA DIZON
[MJH](#)-3 Lewis Phon

CONTINUED AMENDED MOTION TO
DIRECT PAYMENT OF DEBTOR FUNDS
HELD BY CHAPTER 13 STANDING
TRUSTEE TO STANISLAUS COUNTY
SHERIFF CIVIL, LEVYING OFFICER
FILE NO. 2024001122, TO THE
BENEFIT OF JENNINE C. BANAYAT,
CREDITOR
4-19-24 [[305](#)]

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that only 13 days' notice was provided. Dkt. 299.

The Motion Directing Payment is ~~XXXXXXXXXX~~.

Creditor, Jennine C Banayat, ("Creditor") moves for an order requiring Chapter 13 Trustee to deliver the balance of undistributed funds in the amount of \$17,591.00 in this unconfirmed dismissed Chapter 13 case to Stanislaus County Sheriff Civil, Levying Officer File No. 2024001122, to the benefit of Jennine C. Banayat, Creditor.

APPLICABLE LAW

Pursuant to 11 U.S.C. § 1326(a)(2), if a plan is not confirmed, the Trustee shall return any such payments not previously paid and not yet due and owing to creditors to the debtor.

DISCUSSION

At the hearing ~~XXXXXXXXXX~~

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion Directing Payment by Creditor, Jennine C. Banayat, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is ~~XXXXXXXXXX~~

9. [23-24141](#)-C-13 NICHOLAS TEYKAERTS AND MOTION TO INCUR DEBT O.S.T.
[TLA](#)-4 KATIE JACKSON 8-15-24 [[39](#)]
Thomas Amberg

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f) (3) notice which requires an application for Order Shortening Time. The application for an Order Shortening Time was granted and the time of service was shortened to August 15, 2024. Dkt. 45.

The Motion to Incur Debt is granted.

Debtors, Nicholas Teykaerts and Katie Jackson, filed this Motion seeking authority to enter into a vehicle lease agreement to lease a 2024 Ford Maverick. Debtors are seeking to lease the vehicle because their previous vehicle was totaled in an accident and they rely on the vehicle for work.

The proposed monthly payments are \$690.64 for a total lease term of 24 months. Debtor will be required to pay \$7,000.00 to secure the vehicle, which they intend to pay with insurance proceeds from their previous vehicle.

The court finds that the proposed credit, based on the unique facts and circumstances of this case, is reasonable. There being no opposition from any party in interest and the terms being reasonable, the Motion is granted.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Incur Debt filed by Debtors, Nicholas Teykaerts and Katie Jackson, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted. The debtor's counsel shall prepare an appropriate order granting the Motion, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved submit the proposed order to the court.