

**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: September 5, 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**

**September 5, 2023 at 1:00 p.m.**

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1. [23-90010](#)-B-13 MARIA NAVARRO MOTION OF DEBTOR UNDER FED.  
[TMO](#)-5 T. Mark O'Toole RULE 1.7 AND USC 208 AND  
CRF.2635.402 FOR AN ORDER  
DISQUALIFYING ATTORNEY COBY  
HALAVAS AND DEMLER, ARMSTRONG  
AND ROWLAND, LLP FROM  
REPRESENTING SCENIC FUNDING AND  
C&H TRUST DEED SERVICE AND/OR  
MOTION TO DISGORGEE FEES  
7-27-23 [[176](#)]

**Final Ruling**

Hearing has been vacated per the court's order entered August 29, 2023. No appearance is necessary.

**September 5, 2023 at 1:00 p.m.**

**Page 1 of 7**

2. [22-90172](#)-B-13 ALBERT/SHANNON PEREZ MOTION TO SELL  
[LBF](#)-4 Lauren Franzella 8-7-23 [[71](#)]

### **Final Ruling**

The motion has been set for hearing on the notice required by 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). The defaults of the non-responding parties are entered.

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 to sell.

The Bankruptcy Code permits Chapter 13 debtors to sell property of the estate after a noticed hearing. 11 U.S.C. §§ 363(b) and 1303. Debtors propose to sell the property described as 145 North Avenue, Turlock, California ("Property").

Proposed purchasers Delia Lopez and Jocelyn Rodriguez have agreed to purchase the Property for \$425,000.00. The sale is an arm's length transaction, is all cash, and the proceeds from the sale will be used to pay 100% of all timely filed claims. Debtors separately request a waiver of the 14-day stay pursuant to Bankruptcy Rule 6004(h).

Based on the evidence before the court, the court determines that the proposed sale is in the best interest of the estate. The motion is granted and the 14-day stay pursuant to Bankruptcy Rule 6004(h) is waived.

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

Debtors' attorney shall submit an order consistent with the Trustee's standard sale order. The order shall be approved by the Trustee.

3. [19-90475](#)-B-13 AJIT/ROSIE SANDHU  
[PGM](#)-2 Peter G. Macaluso

MOTION TO MODIFY PLAN  
7-27-23 [[150](#)]

### **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. 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.

4. [21-90191](#)-B-13 JOSEPH CALDERON  
[JCW](#)-1 Mark Shmorgon

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

HSBC BANK USA, NATIONAL  
ASSOCIATION VS.

WITHDRAWN BY M.P.

**Final Ruling**

Creditor HSBC Bank USA, National Association having filed a voluntary dismissal of its motion for relief from automatic stay, 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.

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5.     [23-90109](#)-B-13   PHILIP/DENISE CARRILLO                   CONTINUED MOTION TO DISMISS  
          [RDG](#)-2               Eric J. Gravel                   CASE  
  8-15-23 [[28](#)]

**Final Ruling**

This matter was continued from August 29, 2023, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, September 1, 2023. Nothing was filed. Therefore, the court's conditional ruling at dkt. 39, granting the motion to dismiss case, shall become the court's final decision. The continued hearing on September 5, 2023, at 1:00 p.m. is vacated.

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

The court will issue an order.

6. [23-90241](#)-B-13 ROBERT MARTIN  
[RDG](#)-1 Pro Se

CONTINUED MOTION TO DISMISS  
CASE  
8-14-23 [[45](#)]

### **Final Ruling**

This matter was continued from August 29, 2023, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, September 1, 2023. Pro se debtor Robert Martin filed a response stating that he is completing the financial management course and will have access to funds to bring his plan payments current.

Based on the Chapter 13 Trustee's final report and account dated August 31, 2023, it appears that the Debtor has not made any payments to the plan and that nothing has been paid to any creditors.

Therefore, the court's conditional ruling at dkt. 55, granting the motion to dismiss case, shall become the court's final decision. The continued hearing on September 5, 2023, at 1:00 p.m. is vacated.

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

The court will issue an order.

7. [22-90379](#)-B-13 JAMES MAHONEY  
[RDG](#)-2 David C. Johnston

CONTINUED MOTION TO DISMISS  
CASE  
8-14-23 [[56](#)]

**Final Ruling**

This matter was continued from August 29, 2023, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, September 1, 2023. Debtor filed a timely response and a third amended plan with a scheduled confirmation hearing date of October 17, 2023, at 1:00 p.m. This resolves the basis for dismissing the case at this time.

Therefore, the court's conditional ruling at dkt. 60 and the continued hearing on September 5, 2023, at 1:00 p.m. are vacated. The motion to dismiss case is denied without prejudice.

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

The court will issue an order.