

**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 10, 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

September 10, 2024 at 1:00 p.m.

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1. [24-90206](#)-B-13 LUIS MEJIA AND MARTA CONTINUED OBJECTION TO
[CAS-1](#) SAAVEDRA CADENA CONFIRMATION OF PLAN BY
Thru #2 Drew Henwood CREDITOR FORD MOTOR CREDIT
COMPANY LLC
6-17-24 [[32](#)]

Final Ruling

The *initial* Chapter 13 Plan filed May 15, 2024, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to September 17, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

Ford Motor Credit Company LLC ("Creditor") objects to confirmation of the plan on grounds that, even though Debtors intend to surrender a 2022 Ford F150 SuperCrew Cab XLT Pickup ("Vehicle"), Creditor states that it should be allowed to file a deficiency balance claim, if any, after selling the vehicle. Creditor filed Claim No. 5-1 on May 30, 2024, in the amount of \$79,737.84 with \$33,623.00 as the secured value. Based on the valuation amount of \$33,623.00, the unsecured portion of the claim may be approximately \$46,114.84. Because the plan does not include any provision for the Creditor to file a deficiency claim, Creditor objects to confirmation. The court agrees.

The plan filed May 15, 2024, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), party in interest shall have until 5:00 p.m. on September 13, 2024, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtors, the Debtors' attorney, and/or the attorney for the objecting party by facsimile or email.

If no 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 September 17, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on September 17, 2024, at 1:00 p.m.

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

The court will issue an order.

September 10, 2024 at 1:00 p.m.

2. [24-90206](#)-B-13 LUIS MEJIA AND MARTA CONTINUED OBJECTION TO
[LGT](#)-1 SAAVEDRA CADENA CONFIRMATION OF PLAN BY LILIAN
Drew Henwood G. TSANG
6-26-24 [[36](#)]

Final Ruling

The *initial* Chapter 13 Plan filed May 15, 2024, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to September 17, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtors has failed to provide the Chapter 13 Trustee with Business Documents including six months of profit and loss statements, business bank statements, Business Case Questionnaire, and copies of Debtors' liability riders and workers' compensation riders, if applicable, for Debtors' business. 11 U.S.C. § 521(e)(2)(A); FRBP 4002(b)(3). These are required 7 days before the date set for the first meeting of creditors, 11 U.S.C. § 521(e)(2)(A)(i).

Second, Debtors and Debtors' attorney have filed a Rights & Responsibilities indicating that payments of attorney fees are to be made pursuant to Local Bankruptcy Rule 2016-1(C) or Debtors' plan. Moreover, no box has been checked in Section 3.05 of the plan.

Third, Debtors' Schedule D fails to list the addresses, account numbers, and dates debts were incurred for all creditors.

Fourth, the Trustee requested complete copies of Debtors' 2023 federal and state income tax returns. Until these documents are reviewed, it cannot be determined whether Debtors' plan is feasible under 11 U.S.C. § 1325(a)(6).

Fifth, Section 3.1 of Debtors' plan provides for monthly contract installment payments of \$1,562.00 to be paid as a Class 1 On-Going through the plan to Freedom Mortgage. Schedule J at #4 also lists a mortgage payment of \$1,562.00 to be paid directly by Debtors. Without clarification, it cannot be determined whether Debtors' plan is feasible under 11 U.S.C. § 1325(a)(6) or pays all income into the plan.

Sixth, Section 3.1 of Debtors' plan provides for monthly contract installment payments of \$1,270.00 to be paid as a Class 1 On-Going through the plan to Ford Motor Company. Schedule J at #17b also lists a mortgage payment of \$1,270.008 to be paid directly by Debtors. Without clarification, it cannot be determined whether Debtors' plan is feasible under 11 U.S.C. § 1325(a)(6) or pays all income into the plan.

Seventh, U.S. Department of Housing and Urban Development has filed Claim No. 1-1 listing a secured portion of \$47,976.90. Debtors' plan does not list this claim. Debtors' Schedules I and J and Statement of Financial Affairs are silent as to treatment of this creditor. It is unclear whether Debtors intend to pay this creditor. Whether this creditor is to be paid, and if it is to be paid how it is to be paid, impacts whether Debtors will be able to make all payments under the plan and comply with the plan.

The plan filed May 15, 2024, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), party in interest shall have until 5:00 p.m. on September 13, 2024, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13

September 10, 2024 at 1:00 p.m.

Trustee, the Debtors, the Debtors' attorney, and/or the attorney for the objecting party by facsimile or email.

If no 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 September 17, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on September 17, 2024, at 1:00 p.m.

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

The court will issue an order.

3. [22-90412](#)-B-13 ANTHONY HONCIANO
[MSN](#)-2 Mark S. Nelson

MOTION TO MODIFY CHAPTER 13
PLAN
6-26-24 [[51](#)]

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. 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.

4. [24-90232](#)-B-13 JESSI LAMANUZZI
[LGT](#)-1 Chad M. Johnson

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY LILIAN
G. TSANG
6-17-24 [[15](#)]

Final Ruling

The *initial* Chapter 13 Plan filed May 1, 2024, is not confirmable and the objection is not one that may be resolved in the confirmation order. Nevertheless, because this is the *initial* Chapter 13 Plan, the procedure in Local Bankr. R. 3015-1(c)(4) applies.

The court's decision is to **continue the hearing to September 17, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

The Chapter 13 Trustee requested and has not received proof that Debtor made her May 2024 mortgage payment, Business Questionnaire for Nightingale Center of Nursing, L&C Construction, and AMA Wedding and Fabrication, various bank account statements for Debtor and her non-filing spouse for November 2023 through March 2024, and business records for Nightingale Center.

The plan filed May 1, 2024, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

Conditional Nature of this Ruling

Because the objection has been filed, set, and served under Local Bankruptcy Rules 3015-1(c)(4) and 9014-1(f)(2), party in interest shall have until 5:00 p.m. on September 13, 2024, to file and serve a response to the objection(s). See Local Bankr. R. 3015-1(c)(4), 9014-1(f)(2)(C). Any response shall be served on the Chapter 13 Trustee, the Debtors, the Debtors' attorney, and/or the attorney for the objecting party by facsimile or email.

If no 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 September 17, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on September 17, 2024, at 1:00 p.m.

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

The court will issue an order.

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY LILIAN
G. TSANG
7-19-24 [[23](#)]

Final Ruling

No appearance at the September 10, 2024, hearing is required. The court will issue an order.