

**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: September 28, 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

September 28, 2021 at 1:00 p.m.

1. [21-21302](#)-B-13 PETER/REBECCA ORNELAS MOTION TO DISMISS CASE
[RDG](#)-2 Kevin Tang 9-9-21 [[41](#)]

Final Ruling

The motion has been set for hearing on less than 28-days' notice. Local Bankruptcy Rule 9014-1(f)(2). 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 deny the motion to dismiss case.

The Chapter 13 Trustee moves to dismiss the case on grounds that the Debtors are delinquent in plan payments and have not filed an amended plan with a hearing date for confirmation.

Debtors filed a response stating that they fell behind on plan payments due to the unexpected death of Joint Debtor's nephew. The Debtors and their family had to gather funds to provide for funeral and burial expenses. The Debtors filed a motion to confirm plan on September 16, 2021, and have set the confirmation hearing date for November 2, 2021, at 1:00 p.m.

Cause does not exist to dismiss this case. The motion is denied without prejudice and the case will not be dismissed.

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

The court will issue an order.

September 28, 2021 at 1:00 p.m.

2. [13-21346](#)-B-13 AUKEA/VANESSA LOQUE
MS-1 Mark Shmorgon

MOTION TO AVOID LIEN OF
PORTFOLIO RECOVERY ASSOCIATES,
LLC
9-1-21 [[70](#)]

Final Ruling

The motion has been set for hearing on less than 28-days' notice. Local Bankruptcy Rule 9014-1(f)(2). 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 conditionally grant the motion to avoid lien of Portfolio Recovery Associates, LLC and continue the matter to October 5, 2021, at 1:00 p.m.

This is a request for an order avoiding the judicial lien of Portfolio Recovery Associates, LLC ("Creditor") against the Debtors' property commonly known as 772 Swallowview Court, Lincoln, California ("Property").

A judgment was entered against Joint Debtor in favor of Creditor in the amount of \$10,173.53. An abstract of judgment was recorded with Placer County on October 1, 2012, which encumbers the Property.

Pursuant to the Debtors' Schedule A, the Property has an approximate value of \$227,000.00 as of the date of the petition. Debtors have claimed an exemption pursuant to Cal. Civ. Proc. Code § 703.140(b)(5) in the amount of \$1.00 on Schedule C. All other liens recorded against the Property total \$499,573.00.

After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the Debtors' exemption of the real property and its fixing is avoided subject to 11 U.S.C. § 349(b)(1)(B).

The motion is conditionally granted.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, October 1, 2021, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted 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 October 5, 2021, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on October 5, 2021, at 1:00 p.m.

The court will issue an order.

3. [21-21585](#)-B-13 DAVID DAVES
[RDG](#)-1 George T. Burke

MOTION TO RECONVERT CASE FROM
CHAPTER 13 TO CHAPTER 7
9-9-21 [[43](#)]

DEBTOR DISMISSED: 09/08/2021

Final Ruling

This case was dismissed on September 8, 2021, for Debtor's failure to timely pay installments according to the Order Approving Payment of Filing Fee in installments. Dkt. 41. Therefore, the motion to reconvert the case from a chapter 13 to chapter 7 is denied as moot.

The motion is ORDERED DENIED AS MOOT for reasons stated in the minutes.

The court will issue an order.