

**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: October 3, 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

October 3, 2023 at 1:00 p.m.

- | | | | |
|----|---------------------------------------|-----------------|---------------------------------------|
| 1. | <u>23-90319</u> -B-13 | LAWRENCE QUALLS | OBJECTION TO CONFIRMATION OF |
| | <u>LGT</u> -1 | Pro Se | PLAN BY LILIAN G. TSANG |
| | | | 9-12-23 [<u>32</u>] |

CONTINUED TO 10/10/23 AT 1:00 P.M. AT MODESTO COURTROOM TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS SET FOR 10/04/23.

Final Ruling

No appearance at the October 3, 2023, hearing is required. The court will issue an order.

October 3, 2023 at 11:00 a.m.

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 grant the motion for hardship discharge.

Debtors Matthew Monroe and Kimberly Monroe seek a hardship discharge due to change in circumstances, specifically Debtor's declined health that has resulted in his doctor taking him off work since May 2023. It is unknown if or when Debtor will be able to return to work given both his health condition and anticipated layoffs by Debtor's employer.

Due to the loss in household income, the Debtors fell behind on plan payments and mortgage payments. Debtors state that any new modification to their plan would not be feasible since they would not be able to sustain any type of plan payment at this time. However, Debtor's father has offered to provide the Debtors with the money necessary to pay off their case, which Debtors state is the only good faith way to complete their plan and obtain a discharge.

All priority claims have been paid in full and Debtors have paid as much to creditors as they would have received in a Chapter 7 proceeding. Debtors have no domestic support obligations and have filed all required tax returns for the four-year tax period prior to the date of filing.

Discussion

After confirmation of a plan, circumstances may arise that prevent a debtor from completing a plan of reorganization. In such situations, the debtor may ask the court to grant a "hardship discharge." 11 U.S.C. § 1328(b). Generally, such a discharge is available only if: (b)(1) the debtor's failure to complete plan payments is due to circumstances beyond the debtor's control and through no fault of the debtor; (b)(2) creditors have received at least as much as they would have received in a Chapter 7 liquidation case; and (b)(3) modification of the plan is not possible under 11 U.S.C. § 1329. 11 U.S.C. § 1328(b)(1)-(3).

Here, the Debtors have satisfied 11 U.S.C. § 1328(b)(1)-(3). Their failure to complete plan payments is due to Debtor's loss of income, creditors have received as much as they would have received in a Chapter 7 case, and modification of the plan is not possible due to the loss in household income.

The court grants the motion and the clerk of the court shall issue a discharge pursuant to 11 U.S.C. § 1328(b).

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

The court will issue an order.

3. [23-90328](#)-B-13 LINDA WILLHITE OBJECTION TO CONFIRMATION OF
 [LGT](#)-1 Susan D. Silveira PLAN BY LILIAN G. TSANG
 9-7-23 [[17](#)]

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.

Subsequent to the filing of the Chapter 13 Trustee's objection, the Debtor filed an amended plan on September 18, 2023. The confirmation hearing for the amended plan is scheduled for October 24, 2023. The earlier plan filed July 20, 2023, is not confirmed.

The objection is ORDERED OVERRULED AS MOOT for reasons stated in the minutes.

The court will issue an order.

4. [23-90336](#)-B-13 ERIC/DANIELLE CONNOLLY OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Simran Singh Hundal PLAN BY LILIAN G. TSANG
9-13-23 [[17](#)]

CONTINUED TO 11/07/23 AT 1:00 P.M. AT MODESTO COURTROOM.

Final Ruling

No appearance at the October 3, 2023, hearing is required. The court will issue an order.

5. [23-90073](#)-B-13 RUBEN ALVAREZ AND MARIA MOTION TO CONFIRM PLAN
 [GSJ](#)-4 GOMEZ-ALVAREZ 8-18-23 [[69](#)]
 Grace S. Johnson

Final Ruling

The Chapter 13 Trustee having filed a notice of dismissal of its objection, the objection is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

There being no other objection to confirmation, the plan filed August 18, 2023, will be confirmed.

The objection is ORDERED DISMISSED WITHOUT PREJUDICE 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.

6. [23-90074](#)-B-13 MARK/MAUREEN BOULLION MOTION TO CONFIRM PLAN
[MSN](#)-4 Mark S. Nelson 8-16-23 [[54](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). 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 confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtors have provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) 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.