

**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 5, 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
Modesto, California

October 5, 2021 at 1:00 p.m.

1. [18-90644](#)-B-13 CARRIE FLORES MOTION TO MODIFY PLAN
[JBA](#)-6 Joseph Angelo 8-25-21 [[149](#)]

Final Ruling

The motion been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 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). Opposition was filed.

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 not permit the requested modification and not confirm the modified plan.

First, all sums required by the plan have not been paid. 11 U.S.C. §1325(a)(2). Debtor has failed to make the payments proposed in the plan. Debtor is delinquent \$1,614.50 under the proposed plan.

Second, Debtor's plan is not feasible. Paragraph 3.06 of the plan fails to state the monthly dividend payable for the attorney fees. As of this date, records indicate that the balance owed is \$780.00.

Third, Debtor's plan proposes to reclassify Class 2 creditor TD Auto Finance LLC (2012 Volkswagen Jetta) as a Class 3 surrender. This creditor has already received disbursements from the Chapter 13 Trustee.

The modified plan does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

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

The court will issue an order.

October 5, 2021 at 1:00 p.m.

Page 1 of 3

2. [20-90371](#)-B-13 GABRIEL/CHRISTINE AGUE MOTION TO MODIFY PLAN
[JCK](#)-5 Kathleen H. Crist 8-16-21 [[24](#)]

Final Ruling

The Chapter 13 Trustee filed a notice of dismissal of its objection after receiving the Debtors' response that resolves issues raised by the Trustee. The Trustee's objection is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041.

There being no other objection to confirmation, the plan filed August 16, 2021, with the Debtors' proposed order that addresses the Trustee's issues, 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.

3. [16-90657](#)-B-13 TODD BRANDT
[RDG](#)-2 Brian Haddix

CONTINUED MOTION TO DISMISS
CASE
9-14-21 [[96](#)]

Final Ruling

This matter was continued from September 28, 2021, to allow any party in interest to file a response by 5:00 p.m. on October 1, 2021. No response was filed. Therefore, the court's ruling conditionally granting the motion to dismiss case at dkt. 100 shall become the court's final decision. The continued hearing on October 5, 2021, is vacated.

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

The court will issue an order.