

**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 8, 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.

2. [23-90618](#)-B-13 JAMEY/MICHELLE FOSS
[SSH](#)-1 Simran Singh Hundal

MOTION TO CONFIRM PLAN
8-23-24 [[31](#)]

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. 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.

3. [09-92529](#)-B-13 MICHAEL/JILL PARRISH
Ann Marie Friend

MOTION FOR PAYMENT OF UNCLAIMED
FUNDS IN THE AMOUNT OF \$
2386.37 WITH CITIBANK N.A.
9-10-24 [[77](#)]

CASE CLOSED: 06/22/15

Final Ruling

Although this matter was set on 28 days' notice, the certificate of service was one generated by the Clerk's Office on 27 days' notice. Therefore, the court is inclined to deem this matter filed under Local Bankruptcy Rule 9014-1(f)(2) and allow any interested party to file an opposition or response. Separately, the moving papers include a certificate of service which indicates that Movant properly served the U.S. Attorney's Office as required by 28 U.S.C. § 2042.

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 for payment of unclaimed funds and continue the matter to October 15, 2024, at 1:00 p.m.**

Citibank, N.A. ("Movant") has filed the instant Motion for Payment of Unclaimed Funds and seeks to recoup the sum of \$2,386.37 from the unclaimed dividends paid into the court in the underlying Chapter 13 case. The case commenced on August 12, 2009, and a discharge was entered on June 8, 2015. On February 25, 2015, the Chapter 13 Trustee filed with the court a Notice of Unclaimed Dividend(s) by Creditor(s) indicating that the sum of \$2,386.37 was paid into the court as unclaimed funds, which should have otherwise gone to Citibank NA. Dkt. 62.

On September 10, 2024, Movant filed the instant motion, accompanied inter alia by documents that purport to be (1) a notarized Application for Payment of Unclaimed Funds; (2) photocopies of a driver's license, ID card, and business card confirming the identity of Angelo Valletta, who is a vice president of Movant; (3) a Request for Payee Information and TIN Certification form, and (4) a Form W-9. Dkt. 77.

The court is satisfied that Movant has demonstrated its entitlement to the unclaimed funds properly owed to Citibank NA. Accordingly, 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 11, 2024, 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 15, 2024, 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 15, 2024, at 1:00 p.m.

The motion is ORDERED CONDITIONALLY SUSTAINED and CONTINUED to October 15, 2024 at 1:00 p.m. for reasons stated in the minutes.

4. [24-90285](#)-B-13 JOHNATHAN MOHR
[LGT](#)-1 David C. Johnston

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

Final Ruling

The *initial* Chapter 13 Plan filed June 16, 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 October 15, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtor filed an amended Form 122C-1 removing ordinary and necessary operating expenses from line #5. However, Debtor's Amended Form 122C-1 lists Debtor's net income from a business on line 5 as \$50,307.00 per month. A detailed month-by-month analysis as to how this figure was computed must be provided. The profit and loss statement provided to the Chapter 13 Trustee for PBM Construction for January through June 2024 shows a total net income of \$29,817.52, or approximately \$4,969.59 a month. Until a detailed month-by-month analysis is provided to the Chapter 13 Trustee, it cannot be determined whether the plan provides that all of Debtor's projected disposable income received in the applicable commitment period will be applied to make payments to unsecured creditors under the plan. 11 U.S.C. § 1325(b).

The plan filed June 16, 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 October 11, 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 Debtor, the Debtor's 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 October 15, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on October 15, 2024, at 1:00 p.m.

The objection is ORDERED CONDITIONALLY SUSTAINED and CONTINUED to October 15, 2024 at 1:00 p.m. for reasons stated in the minutes.

The court will issue an order.