

**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: October 10, 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
Sacramento, California

October 10, 2023 at 1:00 p.m.

1. [23-21923](#)-B-13 LAMECH/JESSICA EYISON MOTION TO CONFIRM PLAN
[AM-1](#) Andrew A. Moher 9-4-23 [[27](#)]

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.

October 10, 2023 at 1:00 p.m.

2. [23-20748](#)-B-13 RONALD/YUVETTA PERRIN MOTION TO CONFIRM PLAN
[GMW](#)-3 G. Michael Williams 9-1-23 [[97](#)]
Thru #5

Final Ruling

The motion been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). 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 deny the motion to confirm as moot and overrule the objection as moot.

An amended plan was filed on October 3, 2023. The confirmation hearing for the amended plan is scheduled for November 7, 2023, at 1:00 p.m. The earlier plan filed September 1, 2023, is not confirmed.

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

The court will issue an order.

3. [23-20748](#)-B-13 RONALD/YUVETTA PERRIN MOTION TO VALUE COLLATERAL OF
[GMW](#)-4 G. Michael Williams ONE MAIN FINANCIAL GROUP, LLC
9-1-23 [[102](#)]

Final Ruling

The Debtors have failed to use the Official Certificate of Service Form required by Local Bankr. R. 7005-1. This form is mandatory for attorneys and trustees as of November 1, 2022. Accordingly, the motion to value collateral of One Main Financial Group, LLC is denied without prejudice.

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

The court will issue an order.

4. [23-20748](#)-B-13 RONALD/YUVETTA PERRIN MOTION TO VALUE COLLATERAL OF
[GMW](#)-5 G. Michael Williams CHASE BANK
9-1-23 [[107](#)]

Final Ruling

The Debtors have failed to use the Official Certificate of Service Form required by Local Bankr. R. 7005-1. This form is mandatory for attorneys and trustees as of November 1, 2022. Accordingly, the motion to value collateral of Chase Bank is denied without prejudice.

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

The court will issue an order.

5. [23-20748](#)-B-13 RONALD/YUVETTA PERRIN CONTINUED MOTION FOR RELIEF
[RDW](#)-1 G. Michael Williams FROM AUTOMATIC STAY AND/OR
MOTION FOR ADEQUATE PROTECTION
PAUL J. NEWMAN VS. 8-22-23 [[78](#)]

Final Ruling

Debtors Ronald Perrin and Yubetta Perrin ("Debtors") state that they have been negotiating with a prospective lender to refinance the loan secured by a first deed of trust on 1746 East Market Street, Stockton, California. See dkt. 95. The Debtors have also filed a second amended plan on October 3, 2023, to address the default in monthly payments.

Therefore, this Motion for Relief from Automatic Stay shall be continued to **November 7, 2023, at 1:00 p.m.** to be heard in conjunction with the motion to confirm second amended plan.

The court will issue an order.

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). Opposition was filed.

The court's decision is to grant the motion to approve permanent loan modification.

Debtor seeks a court order approving a permanent loan modification with LoanCare, LLC ("Creditor"). Creditor has offered Debtor a permanent loan modification on the first deed of trust. The first modified payment in the amount of \$976.73 for principal plus interest at 6.5% was due on June 1, 2023. The modified principal balance of the Note will include all amounts and arrearages that will be past due as of the Modification Effective Date less any amounts paid to the Creditor but not previously credited to the Debtor's loan. As of the Modification Effective Date, the principal balance of the loan that will be due and payable is \$166,832.86.

The Chapter 13 Trustee filed a response that does not oppose the Debtor's motion to approve loan modification but seeks to point out that the Debtor is delinquent under the terms of the confirmed plan and fails to address the additional income Debtor will have since the proposed loan modification will reduce the monthly contract installment to LoanCare by \$696.20.

The Debtor filed a reply stating that she has filed a modified plan that resolves the issues raised by the Trustee. The confirmation hearing on the modified plan is set for November 7, 2023.

This post-petition financing is consistent with the proposed Chapter 13 plan in this case and Debtor's ability to fund that plan. The motion complies with the provisions of 11 U.S.C. § 364(d) and is granted.

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

The court will issue an order.

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). 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 matter will be continued to **October 17, 2023, at 1:00 p.m.**

Debtor moves to value the secured claim of Toyota Financial Services ("Creditor"). Debtor is the owner of a 2019 Toyota Yaris ("Vehicle"). The Debtor seeks to value the Vehicle at a replacement value of \$8,414.00 as of the petition filing date. As the owner, Debtor's opinion of value is evidence of the asset's value. See Fed. R. Evid. 701; see also *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

Opposition

Creditor has filed an opposition asserting that the fair market value of the Vehicle is \$15,950.00 based on J.D. Power. Creditor has filed Claim No. 2-1 in which it lists a secured claim of \$13,189.65.

Discussion

The value offered by the Creditor, \$15,950.00, is based on a "clean" retail evaluation by J.D. Power. This valuation presumes "no mechanical defects, all equipment is in working order, only minor exterior and interior soiling, clean title history, and vehicle needs minimal reconditioning for resale." Cf. <http://www.jdpower.com/>.

The clean retail value suggested by the Creditor cannot be relied upon by the court to establish the Vehicle's replacement value because it does not take into consideration the mileage or condition of the Vehicle. According to the Debtor, the Vehicle has a mileage of 121,641 miles and is in fair condition due to engine troubles and scrapes and dents to the body.

The court can accept a debtor's lay opinion of the value of his or her property and, in the absence of evidence to the contrary, may even accept a debtor's opinion of value as conclusive. *In re Enewally*, 368 F.3d 1165, 1173 (9th Cir. 2004). Because the court gives no weight to the Creditor's valuation that relies on J.D. Power, the court is inclined to accept the Debtor's opinion of value.

However, given that the Creditor is in the process of procuring an appraisal or other expert evaluation and has requested a continuance, this matter will be continued to October 17, 2023, at 1:00 p.m. before which time the Creditor shall file with the court its appraisal. If no appraisal is submitted to rebut Debtor's lay opinion, the Debtor's motion to value will be granted and the Vehicle will be valued at \$8,414.00.

The court will issue an order.