



UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher M. Klein
Bankruptcy Judge
Sacramento, California

October 17, 2023 at 1:30 p.m.

Unless otherwise ordered, all matters before the Honorable Christopher M. Klein shall be simultaneously: (1) **In Person** at Sacramento Courtroom #35, (2) via **ZoomGov Video**, (3) via **ZoomGov Telephone**, and (4) via **CourtCall**.

You may choose any of these options unless otherwise ordered.

Parties in interest and members of the public may connect to the video and audio feeds, free of charge, using the connection information provided:

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To appear remotely for law and motion or status conference proceedings, you must comply with the following guidelines and procedures:

1. Review the [Pre-Hearing Dispositions](#) prior to appearing at the hearing.
2. You are required to give the court 24 hours advance notice. Review the court's [Zoom Procedures and Guidelines](#) for these, and additional instructions.
3. Parties appearing via CourtCall are encouraged to review the [CourtCall Appearance Information](#).

Please join at least 10 minutes prior to the start of the calendar and wait with your microphone muted until the matter is called.

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UNITED STATES BANKRUPTCY COURT

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Bankruptcy Judge

Sacramento, California

October 17, 2023 at 1:30 p.m.

1. [23-23142](#)-C-13 LUIS JOYA MOTION FOR RELIEF FROM
[CJC](#)-111 Pro Se AUTOMATIC STAY
9-18-23 [[13](#)]
UHC ELK GROVE, L.P. VS.

Final Ruling: No appearance at the October 17, 2023 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(2) procedure which requires 28 days' notice. The Proof of Service shows that 29 days' notice was provided. Dkt. 18.

The Motion for Relief from the Automatic Stay is denied as moot.

The instant case was dismissed on September 29, 2023, for failure to timely file all documents. Dkt. 22.

The applicable Bankruptcy Code provision for the matter before the court is 11 U.S.C. § 362(c)(1) and (2). That section provides:

In relevant part, 11 U.S.C. § 362(c) provides:

(c) Except as provided in subsections (d), (e), (f), and (h) of this section—

(1) the stay of an act against property of the estate under subsection (a) of this section continues until such **property is no longer property of the estate;**

(2) the stay of any other act under subsection (a) of this section continues until the earliest of—

(A) the time the case is closed;

(B) **the time the case is dismissed;** or

(C) if the case is a case under chapter 7 of this title concerning an individual or a case under chapter 9, 11, 12, or 13 of this title, the time a discharge is granted or denied;

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11 U.S.C. § 362(c) (emphasis added).

When a case is dismissed, 11 U.S.C. § 349 discusses the effect of dismissal. In relevant part, 11 U.S.C. § 349 states:

(b) Unless the court, for cause, orders otherwise, a dismissal of a case other than under section 742 of this title—

(1) reinstates—

(A) any proceeding or custodianship superseded under section 543 of this title;

(B) any transfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or preserved under section 510(c)(2), 522(i)(2), or 551 of this title; and

(C) any lien voided under section 506(d) of this title;

(2) vacates any order, judgment, or transfer ordered, under section 522(i)(1), 542, 550, or 553 of this title; and

(3) **revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case under this title.**

11 U.S.C. § 549(c) (emphasis added).

Therefore, as of September 29, 2023, the automatic stay as it applies to the Property, and as it applies to Debtor, was terminated by operation of law. At that time, the Property ceased being property of the bankruptcy estate and was abandoned, by operation of law, to Debtor.

The court shall issue an order confirming that the automatic stay was terminated and vacated as to Debtor and the Property on September 29, 2023.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion for Relief from the Automatic Stay filed by UHC Elk Grove, L.P. ("Movant") having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is denied without prejudice as moot.

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Final Ruling: No appearance at the October 17, 2023 hearing is required.

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. The Proof of Service shows that 47 days' notice was provided. Dkt. 56.

No opposition has been filed. Therefore, the court enters the defaults of the non-responding parties in interest, finds there are no disputed material factual issues, and determines the matter will be resolved without oral argument. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995); *Law Offices of David A. Boone v. Derham-Burk (In re Eliapo)*, 468 F.3d 592, 602 (9th Cir. 2006).

The Motion to Modify Plan is granted.

The debtors filed this Motion seeking to modify the terms of the confirmed plan pursuant to 11 U.S.C. § 1329.

No opposition to the Motion has been filed.

Upon review of the record, the court finds the plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is granted, and the plan is confirmed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Modify Plan filed by the debtors, Ravinesh and Sharita Pal, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is granted, the Modified Chapter 13 Plan (Dkt. 52) meets the requirements of 11 U.S.C. §§ 1322, 1325(a), and 1329, and the plan is confirmed. 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 trustee will submit the proposed order to the court.

3. [23-21562](#)-C-13 EMILIA/EMIL ARDELEAN MOTION TO AVOID LIEN OF
[TBG](#)-2 Stephan Brown CARMELITA MANCIA
9-13-23 [[40](#)]

No Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 28 days' notice. The Proof of Service shows that 34 days' notice was provided. Dkt. 43.

The Motion to Avoid Judicial Lien is ~~xxxxxx~~.

This Motion requests an order avoiding the judicial lien of Carmelita Mancía ("Creditor") against property of the debtor commonly known as 6035 Glenbrook Lane, Carmichael, California ("Property").

A judgment was entered against the debtor in favor of Creditor in the amount of \$261,305.88. Proof of Claim No. 13-1, Ex. 3. An abstract of judgment was recorded with Sacramento County on May 16, 2022, that encumbers the Property. *Id.*

Pursuant to Debtor's Schedule A, the subject real property has an approximate value of \$970,104.00 as of the petition date. Dkt. 24. The unavoidable and senior liens that total \$375,179.17 as of the commencement of this case are stated on Debtor's Schedule D. Dkt. 24. Debtor has claimed an exemption pursuant to California Code of Civil Procedure § 704.730 in the amount of \$325,274.43 on Schedule C. Dkt. 24.

Creditor, Carmelita Mancía, opposes the motion because although the Debtor could have claimed a greater homestead exemption, the debtor only claimed \$325,274.43, which leaves equity of \$269,651 to secure creditor's claim.

DISCUSSION

At the hearing

An order substantially in the following form shall be prepared and issued by the court:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Avoid Judicial Lien pursuant to 11 U.S.C. § 522(f) filed by the debtors Emilia Ardelean and Emil Ardelean having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the judgment lien of Carmelita

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Mancia, California Superior Court for Sacramento County Case No. 34-2017-00209727, recorded on May 16, 2022, Document No. 202205160900 Book 1 and Page 36, with the Sacramento County Recorder, against the real property commonly known as 6035 Glenbrook Lane, Carmichael, California, is **xxxxxxxxxx**

Tentative Ruling:

The Motion has been set on Local Rule 9014-1(f)(1) procedure which requires 35 days' notice. A Proof of Service was not filed.

The Motion to Modify Plan is denied.

The debtor filed this Motion seeking to confirm the Modified Chapter 13 Plan (Dkt. 120) filed on August 31, 2023.

The Chapter 13 Trustee filed an Opposition (Dkt. 125) on October 3, 2023, opposing confirmation on the following grounds:

1. The plan is not feasible;
2. Debtor's schedules do not coincide with what is proposed in the plan; and
3. The debtor has applied for a CalFHA grant, which if approved will require a modified plan to reflect the payment of arrears.

Creditor, U.S. Bank, N.A. filed an Opposition (Dkt. 123) on September 15, 2023, opposing confirmation on the following grounds:

1. The plan is not feasible; and
2. Debtor's schedules do not coincide with what is proposed in the plan.

RESPONSE

The debtor filed a response (dkt. 128) to the oppositions on October 11, 2023. Debtor believes that the objections can be resolved by a simple clarification in the confirming order because the issues raised were typographical errors in the plan, schedules and motion.

DISCUSSION

The debtor has not explained and supplied sufficient information relating to the debtor's salary increases and proposed step up payments to assist the Chapter 13 Trustee in determining what payments the debtor can make and when those payments are to occur.

Further, whether the plan provides for the arrearages as Trustee argues, the debtor has not carried his burden to show the plan is adequately funded. That is reason to deny confirmation. 11 U.S.C. § 1325(a)(6).

Upon review of the record, the court finds the plan does not comply

with 11 U.S.C. §§ 1322, 1325(a), and 1329. The Motion is denied, and the plan is not confirmed.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Motion to Modify Plan filed by the debtor, Sally Allen, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Motion is denied, and the plan is not confirmed.

5. [23-22685](#)-C-13 KEVIN SMITH
[SCF](#)-1 Michael Totaro
OBJECTION TO CONFIRMATION OF
PLAN BY MCLP ASSET COMPANY,
INC.
9-27-23 [[38](#)]

Final Ruling: No appearance at the October 17, 2023 hearing is required.

The Objection has been set on Local Rule 9014-1(f)(2) notice which requires 14 days' notice. The Proof of Service shows that 20 days' notice was provided. Dkt. 41.

Upon review of the Motion and supporting pleadings, and the files in this case, the court has determined that oral argument will not be of assistance in ruling on the Motion.

The Objection to Confirmation of Plan is overruled as moot.

Creditor MCLP Asset Company, Inc. filed this Objection to Confirmation on September 27, 2023. Thereafter, the debtor filed an amended plan and corresponding Motion to Confirm, making this Objection moot. Dkts. 42, 44.

Therefore, the Objection is overruled.

The court shall issue a minute order substantially in the following form holding that:

Findings of Fact and Conclusions of Law are stated in the Civil Minutes for the hearing.

The Objection to the Chapter 13 Plan filed by the MCLP Asset Company, having been presented to the court, and upon review of the pleadings, evidence, arguments of counsel, and good cause appearing,

IT IS ORDERED that the Objection is overruled as moot.