

**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 18, 2022

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 18, 2022 at 1:00 p.m.

1. [19-90303](#)-B-13 SONIA PALACIOS MOTION TO MODIFY PLAN
[BSH](#)-4 Brian S. Haddix 7-29-22 [[64](#)]

Final Ruling

The motion has 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, Section 7.01 of Debtor's plan provides for plan payments to reduce from \$2,189.00 to \$2,044.75 beginning August 2022. Debtor has failed to file supplemental Schedules I and/or Schedule J to support the plan payment. The plan is not feasible under 11 U.S.C. § 1325(a)(6).

Second, the plan proposes to reclassify Class 2(A) creditors Consumer Portfolio Svc (Jefferson Capital Systems) and Internal Revenue Service as Class 2(B) claims. These creditors have already received disbursements from the Chapter 13 Trustee greater than the amount proposed to be valued.

Third, the plan claims a reduced value for the collaterals held by Consumer Portfolio Svc (Jefferson Capital Systems) and Internal Revenue Service. However, the Debtor has not filed motions to value collateral.

Fourth, Section 2.03 of Debtor's plan provides for a plan term of 84 months. Debtor's plan may not be extended beyond 60 months under 11 U.S.C. § 1329(d)(2) as the COVID-19 Bankruptcy Relief Extension Act of 2021 expired on March 27, 2022.

Fifth, the motion and declaration are silent as to why the Debtor is delinquent in the amount of \$14,642.00 under the currently confirmed plan and why these funds were not paid to the Trustee. Without knowing the reasons for the delinquency, it cannot be determined if what caused the delinquency has been rectified, and if Debtor will be able to make future plan payments.

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 18, 2022 at 1:00 p.m.

2. [22-90017](#)-B-13 IVAN/JANET AGASSI
[DCJ](#)-2 David C. Johnston

MOTION TO CONFIRM PLAN
9-2-22 [[44](#)]

Final Ruling

The motion has 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 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 confirm the second amended plan.

Debtor's plan provides for total priority claims in the amount of \$0.00. Priority claims filed to date in Debtor's case total \$109,425.61; the Internal Revenue Service has filed a proof of claim listing a priority portion in the amount of \$95,775.61, and Katherine Youkanehzadalghiyani has filed a proof of claim with a priority portion in the amount of \$13,650.00. Debtor's plan is not feasible with the priority claims filed to date. 11 U.S.C. § 1325(a)(6). This objection was previously raised by the Chapter 13 Trustee and sustained in the court's order denying confirmation of the first amended plan on June 14, 2022.

The amended plan does not comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is not confirmed.

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

The court will issue an order.

3. [22-90224](#)-B-13 SCOTT SALA CONTINUED OBJECTION TO
 [RDG](#)-1 Marc Voisenat CONFIRMATION OF PLAN BY RUSSELL
 D. GREER
 9-1-22 [[20](#)]

CONTINUED TO 11/01/22 AT 1:00 P.M. AT MODESTO COURTROOM TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS SET FOR 10/26/22.

Final Ruling

No appearance at the October 18, 2022, hearing is required. The court will issue an order.

4. [22-90239](#)-B-13 PEDRO BECERRA
[RDG](#)-1 David C. Johnston

CONTINUED MOTION TO DISMISS
CASE
9-6-22 [[15](#)]

Final Ruling

This matter was continued from January 25, 2022, to allow the Debtor to file and set for hearing a motion to confirm plan as stated in the court's conditional ruling at dkt. 19. Nothing was filed. Therefore, the case will be dismissed.

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

The court will issue an order.

5. [22-90172](#)-B-13 ALBERT/SHANNON PEREZ MOTION TO CONFIRM PLAN
[LBF](#)-1 Lauren Franzella 8-26-22 [[28](#)]

Final Ruling

The motion has 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 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 confirm the first amended plan.

The Debtors' plan provides for total plan payments of \$12,719.00 through month 3, and \$4,469.00 per month in months 4 through 60. Debtor is \$8,937.98 delinquent in plan payments. The last payment in the amount of \$4,250.00 was posted on August 3, 2022. The Debtors do not appear to be able to make plan payments proposed and have not carried the burden of showing that the plan complies with 11 U.S.C. § 1325(a)(6).

The amended plan does not comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is not confirmed.

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

The court will issue an order.

6. [22-90078](#)-B-13 CERISE CAMERON-GRICE AND MOTION TO CONFIRM PLAN
[EJV](#)-3 JOSEPH GRICE 9-7-22 [[51](#)]
Eric J. Gravel

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.