

**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 19, 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 19, 2021 at 1:00 p.m.

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1. [21-90345](#)-B-13 BALJEET SINGH OBJECTION TO CONFIRMATION OF
[APN](#)-1 David C. Johnston PLAN BY THE BANK OF NEW YORK
MELLON
9-20-21 [[29](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also 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 sustain the objection and deny confirmation of the plan.

Objecting creditor Bank of New York Mellon as serviced by Specialized Loan Servicing LLC ("Creditor") holds a security interest secured by the Debtor's residence. The creditor has filed a timely proof of claim in which it asserts \$67,936.71 in pre-petition arrearages. The plan lists Creditor's claim in Class 2(A) but does not provide the secured claim in the amount of \$101,714.21, does not provide payments to Creditor in equal monthly distributions, and fails to provide how Debtor will be able to make all payments under the plan if he fails to sell or refinance the residence in order to make a final payment of \$110,000.00 in month 9. Because the plan does not provide for the surrender of the collateral for this claim, the plan must provide for full payment of the arrearage and maintenance of the ongoing note installments. See 11 U.S.C. §§ 1322(b)(2), (b)(5) and 1325(a)(5)(B). The plan cannot be confirmed.

The plan filed August 23, 2021, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

The objection is ORDERED SUSTAINED for reasons stated in the minutes.

The court will issue an order.

October 19, 2021 at 1:00 p.m.

2. [21-90460](#)-B-13 MARIA SEGOVIA
[ADR](#)-1 Pro Se

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-5-21 [[11](#)]

SURJIT SINGH VS.

CASE DISMISSED: 10/12/21

Final Ruling

The case having been dismissed on October 12, 2021, for failure to timely file documents, the motion for relief from stay is denied as moot.

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

The court will issue an order.

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also 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 sustain the objection and deny confirmation of the plan.

First, the Debtor has not provided the Trustee with a copy of an income tax return for the most recent tax year a return was filed or a written statement that no such documentation exists. The Debtor has not complied with 11 U.S.C. § 521(e)(2)(A)(I).

Second, the Debtor has not provided the Trustee with copies of payment advices or other evidence of income received within the 60-day period prior to the filing of the petition. The Debtor has not complied with 11 U.S.C. § 521(a)(1)(B)(iv).

Third, the Debtor's ability to make the plan payment of \$7,500.00 for 60 months is contingent upon a monthly contribution of \$10,000.00 from Debtor's son. Debtor has failed to provide a declaration from his son stating his ability and willingness to financially assist Debtor.

Fourth, the Debtor's Schedule D lists a secured claim for PLM Loan Management Services. However, Debtor's plan does not provide for this secured claim.

Fifth, the Debtor's plan provides for the amount of arrears due to Arturo Martinez at \$450,000.00, to be paid a monthly dividend of \$0.01666. Debtor's plan is a 60-month plan and the monthly dividend proposed for the Class 1 arrearage claim of Arturo Martinez will not pay within a 60-month plan term.

Sixth, Paragraph 2.01 of Debtor's plan provides for a monthly plan payment of \$7,500.00. Debtor has failed to provide admissible evidence that the plan is mathematically feasible. The plan payment will need to be at least \$15,823.00 in order for Debtor's plan to be feasible as proposed.

Seventh, the Debtor's plan payment is \$7,500.00 per month. Debtor's Schedule I and J show that Debtor has a monthly net income of \$12,440.00 per month. Accordingly, Debtor has not proposed to pay all available income into the plan.

Eighth, the Debtor's plan is incomprehensible. The plan does not provide for a percentage to the general unsecured creditors. Accordingly, the plan has not been proposed in good faith (11 U.S.C. §1325(a)(3)), it cannot be determined whether Debtor will be able to comply with the plan (11 U.S.C. §1325(a)(1)), and it cannot be determined whether the plan passes the liquidation test of 11 U.S.C. §1325(a)(4).

The plan filed April 29, 2021, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

The objection is ORDERED SUSTAINED for reasons stated in the minutes.

The court will issue an order.

4. [19-90571](#)-B-13 LATONA BOWERS MOTION TO MODIFY PLAN
[LBF](#)-3 Lauren Franzella 9-9-21 [[89](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 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). 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 permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtor has filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

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