

**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 22, 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.

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Modesto, California

October 22, 2024 at 1:00 p.m.

1. [24-90445](#)-B-13 GONZALO/LUCILA PALOMINOS OBJECTION TO CONFIRMATION OF
[LGT-1](#) Ryan Keenan PLAN BY LILIAN G. TSANG
9-23-24 [[15](#)]

Final Ruling

The *initial* Chapter 13 Plan filed July 31, 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 29, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, it is unclear whether Debtors will be able to make plan payments and comply with the plan pursuant to 11 U.S.C. § 1325(a)(6). Complete copies of Debtors' 2023 state income tax returns are required to be reviewed in order to determine whether the proposed plan is feasible.

Second, the plan does not provide for all of Debtors' projected disposable income to be applied to unsecured creditors under the plan. 11 U.S.C. § 1325(b)(1)(B). Debtors' Form 122C-1 lists Co-Debtor's gross income on line 2 as \$7,010.50 per month. However, the pay advice provided to the Chapter 13 Trustee for pay period ending June 15, 2024, shows a year-to-date gross income for Co-Debtor of \$42,063.33 or average monthly wages of \$7,647.88. Until a detailed month-by-month analysis is received, it cannot be determined whether the plan provides that all projected disposable income to be received in the applicable commitment period will be applied to make payments to unsecured creditors under the plan.

Third, based on Debtors' Forms 122C-1 and 122C-2, the projected disposable income available to be applied to make payments to unsecured creditors pursuant to 11 U.S.C. § 1325(b)(1)(B) is \$245.32 for 60 months, which would result in a 44.37% dividend to the general unsecured creditors, assuming the total claim amount listed at section 3.14 of the plan is accurate. Debtor's plan provides for a 32.37% distribution to general unsecured creditors. Therefore, Debtors' plan fails to comply with 11 U.S.C. § 1325(b)(1)(B) and may not be confirmed.

Fourth, Debtors' Disclosure of Compensation of Attorney for Debtors (Form 2030) fails to list the total agreed upon flat fee, and Line 6 of the form states that the fee does not include judicial lien avoidances and relief from stay actions. These services are included in the "No Look Fee" and should not be excluded. These services are also basic services that are required under Local Bankr. R. 2017-1(a)(1).

Fifth, Debtors' plan provides for attorney fees in the amount of \$3,175.00 to be paid at a monthly dividend of \$170.00. Pursuant to Local Bankruptcy Rule 2016-1(c)(4)(B), the payment flat fees must be paid in equal monthly installments over the term of the plan. Debtors' plan is a 60-month plan. The Trustee estimates a monthly dividend of \$52.92 is necessary to pay the claim in full within Debtors' 60-month plan term.

The plan filed July 31, 2024, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

October 22, 2024 at 1:00 p.m.
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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 25, 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 Debtors, the Debtors' 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 29, 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 29, 2024, at 1:00 p.m.

The objection is ORDERED CONDITIONALLY SUSTAINED and CONTINUED to October 29, 2024 at 1:00 p.m. for reasons stated in the minutes.

The court will issue an order.

2. [24-90460](#)-B-13 CARLOS SANDOVAL OBJECTION TO CONFIRMATION OF
[LGT](#)-1 David C. Johnston PLAN BY LILIAN G. TSANG
9-19-24 [[19](#)]

CONTINUED TO 11/05/24 AT 1:00 P.M. AT MODESTO COURTROOM TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS SET FOR 10/30/24.

Final Ruling

No appearance at the October 22, 2024, hearing is required. The court will issue an order.

3. [24-90461](#)-B-13 JOSEPH SISEMORE OBJECTION TO CONFIRMATION OF
[LGT](#)-1 David C. Johnston PLAN BY LILIAN G. TSANG
9-19-24 [[19](#)]

CONTINUED TO 11/26/24 AT 1:00 P.M. AT MODESTO COURTROOM TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS SET FOR 11/21/24.

Final Ruling

No appearance at the October 22, 2024, hearing is required. The court will issue an order.

4. [24-90467](#)-B-13 MICHELLE/GABRIEL TERRY OBJECTION TO CONFIRMATION OF
[KMM](#)-1 Seth L. Hanson PLAN BY SERVBANK SB
Thru #5 9-18-24 [[12](#)]

CONTINUED TO 11/05/24 AT 1:00 P.M. AT MODESTO COURTROOM TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS SET FOR 10/31/24.

Final Ruling

No appearance at the October 22, 2024, hearing is required. The court will issue an order.

5. [24-90467](#)-B-13 MICHELLE/GABRIEL TERRY OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Seth L. Hanson PLAN BY LILIAN G. TSANG
9-23-24 [[17](#)]

CONTINUED TO 11/05/24 AT 1:00 P.M. AT MODESTO COURTROOM TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS SET FOR 10/31/24.

Final Ruling

No appearance at the October 22, 2024, hearing is required. The court will issue an order.