

**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 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.

# Eastern District of California

Honorable Christopher D. Jaime  
Bankruptcy Judge  
**Sacramento, California**

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

1. [24-22501](#)-B-13 DULCY KELLY CONTINUED OBJECTION TO  
[LGT](#)-1 Pro Se CONFIRMATION OF PLAN BY LILIAN  
G. TSANG  
7-29-24 [[17](#)]

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

## Final Ruling

No appearance at the September 10, 2024, hearing is required. The court will issue an order.

2. [24-22725](#)-B-13 RYAN AMODEO AND OEURN  
[PGM](#)-1 SNGUON  
Peter G. Macaluso

MOTION TO RECONSIDER DISMISSAL  
OF CASE AND/OR MOTION TO VACATE  
DISMISSAL OF CASE  
10-8-24 [[53](#)]

DEBTORS DISMISSED: 10/02/24

### Final Ruling

Before the court is a motion by Debtors Ryan Amodeo and Oeurn Snguon ("Debtors") to reconsider and vacate the order dismissing their Chapter 13 case. The dismissal order was filed on October 2, 2024, and entered on October 3, 2024. Debtors filed their motion promptly thereafter on October 8, 2024.

Debtors request relief under Fed. R. Civ. P. 59(e) which is applicable by Fed. R. Bankr. P. 9023.<sup>1</sup> Although the motion is filed, set, and served under Local Bankr. R. 9014-1(f)(2), there is authority that allows the court to consider a motion for reconsideration made under Fed. R. Civ. P. 59(e) on an ex parte basis. See *Perez-Reyes v. National Distribution Centers, LLC*, 2018 WL 7077183 (C.D. Cal. 2018) (granting ex parte application under Rule 59(e)). And since this motion seeks to reinstate this Chapter 13 case with all its protections, including the automatic stay,<sup>2</sup> the court will exercise its discretion to consider and resolve the Debtors' motion on an ex parte basis. See Local Bankr. R. 1001-1(f), 9014-1(h).

Debtors' case was dismissed for failure to timely pay the third installment payment of \$78.00 due September 23, 2024. This stems from the court's order discharging an order to show cause for failure to pay the second installment payment (because it was eventually paid) and which also stated that if any future payment was not timely received, the case would be dismissed without further notice or hearing. Dkt. 43. Ultimately, the third installment payment was not timely received, and the case was dismissed without further notice by an order filed on November 2, 2024.

Debtors' declaration states that they had set up auto payments to timely pay the third and fourth/final installments via Pay.gov, but had erroneously paid the wrong division (identified as "Fed Debt - Public" rather than "CAEB Online Payment Form"). See exhibits at dkt. 57.

On October 1, 2024, Debtors were contacted by counsel, who advised that their case was pending dismissal because the third installment due September 23, 2024, had not been received. Debtors immediately made both the third and fourth installment payments totaling \$158.00 to the correct division on November 1, 2024. However, because the third installment payment had not been timely received, the case was dismissed without further notice on November 2, 2024.

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<sup>1</sup>Filed within fourteen days of the entry of the dismissal order, the Debtors' motion is governed by Fed. R. Civ. P. 59(e) which is applicable by Fed. R. Bankr. P. 9023. *First Ave. West Building, LLC v. James (In re Onecast Media, Inc.)*, 439 F.3d 558, 561-62 (9th Cir. 2006). There are four grounds on which a motion under Fed. R. Civ. P. 59(e) may be granted: (1) to correct manifest errors of law or fact upon which the judgment rests; (2) to present newly discovered or previously unavailable evidence; (3) to prevent manifest injustice; or (4) if amendment is justified by an intervening change in controlling law. *Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011).

<sup>2</sup>See *State Bank of Southern Utah v. Gledhill (In re Gledhill)*, 76 F.3d 1070, 1079-1080 and n.8 (10th Cir. 1996); see also *Ramirez v. Whelan (In re Ramirez)*, 188 B.R. 413, 416 (9th Cir BAP 1995) (Klein, J., concurring) ("Occasionally, it might suffice to revive the stay by way of motion for reconsideration under Federal Rules of Civil Procedure 59(e) . . . , which [is] applicable in bankruptcy by virtue of Federal Rule[] of Bankruptcy Procedure . . . 9023.").

Problematic is that neither the motion nor points and authorities plead with particularity the relief sought. The motion states generally that Fed. R. Civ. P. 59 and 60 apply but provides no analysis, in particular the four grounds under Fed. R. Civ. P. 59(e) since this motion to vacate dismissal was filed just six days after the case was dismissed.

Nevertheless, although the Debtors' analysis is thin, the court concludes that it would be manifestly unjust to dismiss the case when the Debtors attempted to comply with the installment payment order, arranged for timely payment of the installment due, appear to have attempted to timely pay the installment payment, but mistakenly designated the wrong recipient for the installment payment. Therefore, the motion is order granted, the order dismissing this case at dkt. 50 is vacated, and the Chapter 13 case will be reinstated.

The motion is ORDERED GRANTED, the order dismissing this case filed on October 2, 2024 (and entered on October 3, 2024) at dkt. 50 is VACATED, and the Chapter 13 case will be REINSTATED.

The court will prepare an appropriate order.

3. [24-24231](#)-B-13 SHANNON FAIRLEY  
Pro Se

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
10-1-24 [[11](#)]

OAKMONT PROPERTIES II, L.P.  
VS.

### **Final Ruling**

The motion has been set for hearing on less than 28-days notice. Local Bankruptcy Rule 9014-1(f)(2). Parties in interest were not required to file a written response or opposition.

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 **conditionally grant the motion for relief from stay and continue the matter to October 29, 2024, at 1:00 p.m.**

Oakmont Properties II, L.P. ("Movant") seeks relief from the automatic stay with respect to real property commonly known as 10270 East Taron Drive, #101, Elk Grove, California (the "Property"). Movant has provided the Declaration of Hatranh Moore to introduce into evidence the documents upon which it bases the claim and the obligation secured by the Property.

The Declaration states that Movant is the legal owner of the property and entered into a written lease agreement with Debtor. Pursuant to the terms of the lease, the rent of \$2,800.00 was due on or before the first day of each month. Debtor, who currently occupies the Property, failed to pay rent for the month of April 2024, and was served a Notice to Pay Rent or Quit on April 4, 2024. On May 21, 2024, Movant filed an action for Unlawful Detainer in the Superior Court of California, County of Sacramento. At trial on September 3, 2024, Movant and Debtor stipulated that Debtor would vacate September 20, 2024. Debtor failed to vacate on that date and filed the instant bankruptcy petition on September 23, 2024. The bankruptcy prevents Movant from moving forward the unlawful detainer matter.

### **Discussion**

Movant presents evidence that it is the owner of the Property. Based on the evidence presented, Debtor would be at best a tenant at sufferance. Based upon the evidence submitted, the court determines that there is no equity in the property for either the Debtor or the Estate. 11 U.S.C. § 362(d)(2).

Movant has presented a colorable claim for title to and possession of this real property. As stated by the Bankruptcy Appellate Panel in *Hamilton v. Hernandez*, No. CC-04-1434-MaTK, 2005 Bankr. LEXIS 3427 (B.A.P. 9th Cir. Aug. 1, 2005), relief from stay proceedings are summary proceedings which address issues arising only under 11 U.S.C. § 362(d). *Hamilton*, 2005 Bankr. LEXIS 3427 at \*8-\*9 (citing *Johnson v. Righetti (In re Johnson)*, 756 F.2d 738, 740 (9th Cir. 1985)). The court does not determine underlying issues of ownership, contractual rights of parties, or issue declaratory relief as part of a motion for relief.

The court shall issue an order terminating and vacating the automatic stay to allow Movant, and its agents, representatives and successors, to exercise its rights to obtain possession and control of property including unlawful detainer or other appropriate judicial proceedings and remedies to obtain possession thereof.

The 14-day stay of enforcement under Rule 4001(a)(3) is not waived.

No other or additional relief is granted by the court.

### **Conditional Nature of this Ruling**

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, October 25, 2024, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted 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 an opposition or response is timely filed and served, the court will hear the motion on October 29, 2024, at 1:00 p.m.

4. [24-21632](#)-B-13 MARTIN VEGA  
[AF-2](#) Arasto Farsad

MOTION TO CONFIRM PLAN  
9-4-24 [[48](#)]

**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.

Subsequent to the filing of the Trustee's objection, an amended plan was filed on October 3, 2024. The confirmation hearing for the amended plan is scheduled for November 19, 2024. The earlier plan filed September 4, 2024, 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.

5. [24-23139](#)-B-13 FRANK CANO AND ELIZABETH CONTINUED OBJECTION TO  
[LGT](#)-1 RAPISURA CONFIRMATION OF PLAN BY LILIAN  
Peter G. Macaluso G. TSANG  
9-9-24 [[17](#)]

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

**Final Ruling**

No appearance at the September 10, 2024, hearing is required. The court will issue an  
order.



6. [24-22642](#)-B-13 FRANK/SYLIVIA FERNANDEZ MOTION TO CONFIRM PLAN  
[WW-1](#) Mark A. Wolff 9-10-24 [[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. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

7. [24-23446](#)-B-13 JOHN/JOY CONKLIN  
[LGT](#)-1 Colby D. LaVelle

OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
9-23-24 [[15](#)]

### **Final Ruling**

The *initial* Chapter 13 Plan filed August 3, 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, the plan has not been proposed in good faith pursuant to 11 U.S.C. § 1325(a)(3). Debtors' Statement of Financial Affairs at No. 20 fails to accurately list all accounts closed by Debtors within one year before filing.

Second, Debtors will not be able to make all payments under the plan and comply with the plan. 11 U.S.C. § 1325(a)(6). Debtors' Schedule I income and deductions do not match the pay advices provided to the Chapter 13 Trustee. An amended Schedule I must be filed and, until then, it cannot be determined whether the plan is feasible.

Third, Debtors' case was filed on August 3, 2024. The plan opted to comply with Local Bankruptcy Rule 2016-1(c). Therefore, Rights and Responsibilities form EDC 3-096 (Rev. 4/23/2024) needs to be filed. The currently filed Rights and Responsibilities is the outdated 8/29/2023 version.

Fourth, based on Debtors' currently filed Schedules I and J, the Debtors' budget shows a monthly income of \$6,307.83 and monthly expenses totaling \$5,846.67, resulting in a net income of \$461.16. However, Debtors' plan payment is proposed at \$650.00 per month for 60 months. Debtors cannot afford plan payment if the budget is correct.

The plan filed August 3, 2024, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

### **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.

8.     [24-23051](#)-B-13     JOHN KEIFER                             OBJECTION TO CONFIRMATION OF  
          [LGT](#)-2               Pro Se                             PLAN BY LILIAN G. TSANG  
  10-4-24 [[36](#)]

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

**Final Ruling**

No appearance at the September 10, 2024, hearing is required. The court will issue an  
order.

9. [24-22960](#)-B-13 BEE DAVIS  
[LGT](#)-2 Pro Se

OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
10-4-24 [[25](#)]

CONTINUED TO 11/19/24 AT 1:00 P.M. AT SACRAMENTO COURTROOM TO BE HEARD AFTER THE  
CONTINUED MEETING OF CREDITORS SET FOR 11/14/24.

**Final Ruling**

No appearance at the September 10, 2024, hearing is required. The court will issue an  
order.

10. [24-23164](#)-B-13 ESTELLE YANCEY CONTINUED OBJECTION TO  
[LGT](#)-1 Pro Se CONFIRMATION OF PLAN BY LILIAN  
**Thru #11** G. TSANG  
9-10-24 [[19](#)]

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

**Final Ruling**

No appearance at the September 10, 2024, hearing is required. The court will issue an  
order.

11. [24-23164](#)-B-13 ESTELLE YANCEY CONTINUED OBJECTION TO  
[RAS](#)-1 Pro Se CONFIRMATION OF PLAN BY  
WILMINGTON SAVINGS FUND  
SOCIETY, FSB  
9-11-24 [[22](#)]

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

**Final Ruling**

No appearance at the September 10, 2024, hearing is required. The court will issue an  
order.

12. [24-23473](#)-B-13 EVELYN BENNETT  
[LGT](#)-1 Gregory J. Smith  
**Thru #13** OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
9-19-24 [[26](#)]

**Final Ruling**

The objection to confirmation 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). Nonetheless, 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 overrule the objection as moot.

Subsequent to the filing of the Chapter 13 Trustee's objection, the Debtor filed an amended plan on October 7, 2024. The confirmation hearing for the amended plan is scheduled for November 19, 2024. The earlier plan filed August 19, 2024, is not confirmed.

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

The court will issue an order.

13. [24-23473](#)-B-13 EVELYN BENNETT  
[NLG](#)-1 Gregory J. Smith  
OBJECTION TO CONFIRMATION OF  
PLAN BY LAKEVIEW LOAN  
SERVICING, LLC  
9-4-24 [[20](#)]

**Final Ruling**

The objection to confirmation 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). Nonetheless, 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 overrule the objection as moot.

Subsequent to the filing of Lakeview Loan Servicing, LLC's objection, the Debtor filed an amended plan on October 7, 2024. The confirmation hearing for the amended plan is scheduled for November 19, 2024. The earlier plan filed August 19, 2024, is not confirmed.

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

The court will issue an order.

14. [24-22989](#)-B-13 DANIEL GAY AND ELVIA MOTION TO CONFIRM PLAN  
[KLG](#)-2 CERNA-GAY 9-9-24 [[38](#)]  
Arete Kostopoulos

**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. The Chapter 13 Trustee shall prepare an appropriate order confirming the Chapter 13 plan and submit the proposed order to the court.

The court will issue an order.

15. [24-23494](#)-B-13 KRISTINA LINCOLN  
[LGT](#)-1 Eric L. Seyvertsen

OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
9-23-24 [[16](#)]

### **Final Ruling**

The *initial* Chapter 13 Plan filed August 7, 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.**

Debtor's petition fails to list her middle name. Debtor has not amended the petition to include her full name.

The plan filed August 7, 2024, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

### **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 Debtor, the Debtor's 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.