

**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 26, 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 26, 2021 1:00 p.m.

1. [20-90218](#)-B-13 JAMES BLANCO MOTION TO DISMISS CASE
[RDG](#)-1 Jessica A. Dorn 10-12-21 [[30](#)]

Final Ruling

The motion has been set for hearing on less than 14-days notice. Local Bankruptcy Rule 9014-1(f)(3). 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 **continue the matter to December 14, 2021, at 1:00 p.m.**

The Debtor's confirmed plan is for a term of 36 months paying 12.60% to general unsecured creditors, and a monthly plan payment of \$185.00. According to the Chapter 13 Trustee's calculations the plan will take approximately 69 months to complete. The overextension is caused by a discrepancy with the claim filed by the Internal Revenue Service. Section 3.12 of Debtor's plan provides for \$0.02 in priority claims; the Internal Revenue Service filed a priority claim in the amount of \$8,734.04. The Debtor has completed 18 months of his 36-month plan.

The Debtor filed a response stating that he has filed an objection to claim of IRS. The objection is set for hearing on December 14, 2021, at 1:00 p.m. Debtor requests that the motion to dismiss case be continued. The motion to dismiss case will therefore be continued to the same date and time.

The court will issue an order.

October 26, 2021 at 1:00 p.m.

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Final Ruling

The motion has been set for hearing on less than 14-days notice. Local Bankruptcy Rule 9014-1(f)(3). 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 amended motion to dismiss case and continue the matter to November 2, 2021, at 1:00 p.m.**

The Debtor's confirmed plan is for a term of 60 months paying 0% to general unsecured creditors, and a monthly plan payment of \$410.00. According to the Chapter 13 Trustee's calculations the plan will take approximately 675 months to complete. The overextension is caused by a discrepancy with the claim filed by the Internal Revenue Service. Section 3.12 of Debtor's plan provides for \$19,500.00 in priority claims; the Internal Revenue Service filed a priority claim in the amount of \$225,091.60. The Debtor has completed 16 months of his 60-month plan.

The Trustee filed the Notice of Filed Claims on December 22, 2020, which includes allowed claims that will prevent Debtor's plan from being completed timely. Debtor has failed to object to the claim or modify their plan as required by Local Bankr. R. 3007-1(d)(3) and (5).

Cause exists to dismiss this case pursuant to 11 U.S.C. § 1307(c). The motion is conditionally granted and the case will be dismissed.

Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(3), any party in interest shall have until 5:00 p.m. on Friday, October 29, 2021, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(3). 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 November 2, 2021, 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 November 2, 2021, at 1:00 p.m.

The court will issue an order.