

**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 31, 2023

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 31, 2023 at 1:00 p.m.

1. [23-90200](#)-B-13 JAMES/JUDITH HASSAY MOTION TO DISMISS CASE
[LGT](#)-1 Mary D. Anderson 10-17-23 [[52](#)]

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 and continue the matter to November 7, 2023, at 1:00 p.m.**

Objections to confirmation of Debtors' original plan were heard and sustained on August 8, 2023. To date, the Debtors have not filed, set, and served an amended plan. This is an unreasonable delay by the Debtors that is prejudicial to creditors who are delayed in receiving payments. 11 U.S.C. § 1307(c)(1).

Cause exists to dismiss this case. 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)(2), any party in interest shall have until 5:00 p.m. on Friday, November 3, 2023, 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 November 7, 2023, 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 7, 2023, at 1:00 p.m.

October 31, 2023 at 1:00 p.m.

2. [23-90406](#)-B-13 ALBERTO ELIZONDO
T. Mark O'Toole

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
10-3-23 [[20](#)]

Final Ruling

The court's decision is to discharge the Order to Show Cause and the case will remain pending.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due September 29, 2023. The court's docket reflects that the default was cured on October 10, 2023. The payment constituted the final installment.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

The court will issue an order.

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 and continue the matter to November 7, 2023, at 1:00 p.m.**

First, the Debtor is delinquent under the plan in the sum of \$1,430.00. Another payment in the amount of \$715.00 will be due prior to the hearing on this motion. No payments have been made to date. 11 U.S.C. § 1307(c)(4).

Second, the Chapter 13 Trustee's objection to confirmation was filed on September 12, 2023, and has been continued twice to allow for the Debtor to appear at his meeting of creditors. The Debtor failed to appear at the first meeting of creditors held on September 6, 2023, and failed to appear at continued meetings of creditors on September 20 and October 4, 2023. Given Debtor's history of nonappearance, the court finds it unlikely that he will appear at the continued meeting of creditors set for November 1, 2023. Cause exists to dismiss the case under 11 U.S.C. § 1307(c).

Cause exists to dismiss this case. 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)(2), any party in interest shall have until 5:00 p.m. on Friday, November 3, 2023, 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 November 7, 2023, 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 7, 2023, at 1:00 p.m.

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 and continue the matter to November 7, 2023, at 1:00 p.m.**

First, the Debtor has filed four plans, all of which have been denied confirmation. To date, the Debtor has failed to file, set, and serve an amended plan and the case remains unconfirmed. This is an unreasonable delay by the Debtor that is prejudicial to creditors who are delayed in receiving payments. 11 U.S.C. § 1307(c)(1).

Second, a review of Debtor's Schedules A/B, C and D shows that the Debtor has non-exempt equity in personal property. Should the Debtor choose to amend Schedule C, there would remain non-exempt equity that may be available for the benefit of unsecured creditors.

Cause exists to dismiss this case. 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)(2), any party in interest shall have until 5:00 p.m. on Friday, November 3, 2023, 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 November 7, 2023, 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 7, 2023, at 1:00 p.m.

5. [22-90353](#)-B-13 KELLY SEARS
[LGT](#)-1 David C. Johnston

MOTION TO DISMISS CASE
10-17-23 [[101](#)]

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 and continue the matter to November 7, 2023, at 1:00 p.m.**

First, the Debtor is delinquent under the plan in the sum of \$750.00. The Debtor has failed to make timely payments. 11 U.S.C. § 1307(c)(4).

Second, the Debtor has filed three plans, all of which have been denied confirmation. To date, the Debtor has failed to file, set, and serve an amended plan and the case remains unconfirmed. This is an unreasonable delay by the Debtor that is prejudicial to creditors. 11 U.S.C. § 1307(c)(1).

Cause exists to dismiss this case. 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)(2), any party in interest shall have until 5:00 p.m. on Friday, November 3, 2023, 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 November 7, 2023, 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 7, 2023, at 1:00 p.m.

6. [23-90437](#)-B-13 KEANNA ALMEDA
[ADR](#)-1 Pro Se

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY AND/OR
MOTION FOR ADEQUATE PROTECTION
10-6-23 [[15](#)]

WESTDALE COMMONS VS.

Final Ruling

This matter was continued from October 24, 2023, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, October 27, 2023. Nothing was filed. Therefore, the court's conditional ruling at dkt. 29, granting the motion for relief from automatic stay, shall become the court's final decision. The continued hearing on October 31, 2023, at 1:00 p.m. is vacated.

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

The court will issue an order.

7. [18-90792](#)-B-13 BRIAN BERGMANN-CARLSON CONTINUED MOTION FOR RELIEF
 [KMB](#)-1 AND JENNIFER CARLSON FROM AUTOMATIC STAY
 Matthew M. Spielberg 6-8-23 [[55](#)]

U.S. BANK NATIONAL
ASSOCIATION VS.

CONTINUED TO 12/05/23 AT 1:00 P.M. AT MODESTO COURTROOM AT THE REQUEST OF MOVING PARTY.

Final Ruling

No appearance at the October 31, 2023, hearing is required. The court will issue an order.