

**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: November 5, 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

November 5, 2024 at 1:00 p.m.

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1. [24-90234](#)-B-13 FABRICIO VASQUEZ CONTINUED OBJECTION TO
AP-1 David C. Johnston CONFIRMATION OF PLAN BY
Thru #3 NATIONSTAR MORTGAGE LLC
6-28-24 [[28](#)]

Final Ruling

The *initial* Chapter 13 Plan filed May 18, 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 November 12, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

Objecting creditor Nationstar Mortgage LLC holds a deed of trust secured by the Debtor's residence. The creditor has filed a timely proof of claim in which it asserts \$6,696.82 in pre-petition arrearages. The plan does not propose to cure these arrearages. 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). Because it fails to provide for the full payment of arrearages, the plan cannot be confirmed.

The plan filed May 18, 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), any party in interest shall have until 5:00 p.m. on November 8, 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 November 12, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on November 12, 2024, at 1:00 p.m.

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

The court will issue an order.

November 5, 2024 at 1:00 p.m.

2. [24-90234](#)-B-13 FABRICIO VASQUEZ
[LGT](#)-1 David C. Johnston

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY LILIAN
G. TSANG
6-28-24 [[32](#)]

Final Ruling

The *initial* Chapter 13 Plan filed May 18, 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 November 12, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtor's plan is not feasible. Debtor's plan provides for attorney fees in the amount of \$4,813.00 to be paid at a monthly dividend of \$81.00. 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. Debtor's plan is a 60-month plan. A monthly dividend of \$80.22 is necessary to pay the claim in full within Debtor's 60-month plan term.

Second, the Debtor must provide the Chapter 13 Trustee with copies of 6 monthly profit and loss statements for each of the Debtor's businesses, copies of all bank statements, both personal and business in which Debtor is a signatory to, for the six months preceding the filing of this case, and copies of all paperwork for the closing of Debtor's business Porky Wow. Without these documents, it cannot be determined whether Debtor's Chapter 13 plan is feasible under 11 U.S.C. § 1325(a)(6).

Third, the attachment to Schedule I, which provides for Debtor's business income and expenses, needs to be filed. Without this document, it cannot be determined whether Debtor's Chapter 13 plan is feasible and commits all projected disposable income for the applicable commitment period to Debtor's general unsecured creditors. 11 U.S.C. § 1325(a)(6).

Fourth, Debtor's Schedule C exempts an amount higher than the current value listed on Schedule A/B for lines 3.1 and 3.2. Because of this, the accuracy and good faith filing of the filed schedules is uncertain. 11 U.S.C. § 1325(a)(3).

The plan filed May 18, 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), any party in interest shall have until 5:00 p.m. on November 8, 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 November 12, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on November 12, 2024, at 1:00 p.m.

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

The court will issue an order.

November 5, 2024 at 1:00 p.m.

3. [24-90234](#)-B-13 FABRICIO VASQUEZ
[PPR](#)-1 David C. Johnston

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY BMO
BANK, N.A.
6-14-24 [[23](#)]

Final Ruling

The *initial* Chapter 13 Plan filed May 18, 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 November 12, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

Objecting creditor BMO Bank, N.A. holds a deed of trust secured by the Debtor's residence. The creditor has filed a timely proof of claim in which it asserts \$662.49 in pre-petition arrearages. The plan does not propose to cure these arrearages. 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). Because it fails to provide for the full payment of arrearages, the plan cannot be confirmed.

The plan filed May 18, 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), any party in interest shall have until 5:00 p.m. on November 8, 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 November 12, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on November 12, 2024, at 1:00 p.m.

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

The court will issue an order.

4. [24-90460](#)-B-13 CARLOS SANDOVAL CONTINUED OBJECTION TO
[LGT](#)-1 David C. Johnston CONFIRMATION OF PLAN BY LILIAN
G. TSANG
9-19-24 [[19](#)]

CONTINUED TO 11/19/24 AT 1:00 P.M. AT MODESTO COURTROOM TO BE HEARD AFTER THE CONTINUED
MEETING OF CREDITORS SET FOR 11/13/24.

Final Ruling

No appearance at the November 5, 2024, hearing is required. The court will issue an
order.

5. [24-90467](#)-B-13 MICHELLE/GABRIEL TERRY CONTINUED OBJECTION TO
[KMM](#)-1 Seth L. Hanson CONFIRMATION OF PLAN BY
Thru #6 SERVBANK SB
9-18-24 [[12](#)]

Final Ruling

The *initial* Chapter 13 Plan filed August 13, 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 November 12, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.

Objecting creditor Servbank, SB holds a deed of trust secured by the Debtors' residence. The creditor has filed a timely proof of claim in which it asserts \$105,256.67 in pre-petition arrearages. The plan does not propose to cure these arrearages. 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). Because it fails to provide for the full payment of arrearages, the plan cannot be confirmed.

The plan filed August 13, 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), any party in interest shall have until 5:00 p.m. on November 8, 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 November 12, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on November 12, 2024, at 1:00 p.m.

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

The court will issue an order.

6. [24-90467](#)-B-13 MICHELLE/GABRIEL TERRY CONTINUED OBJECTION TO
[LGT](#)-1 Seth L. Hanson CONFIRMATION OF PLAN BY LILIAN
G. TSANG
9-23-24 [[17](#)]

Final Ruling

The Chapter 13 Trustee objects to plan confirmation on grounds that Debtors' 341 meeting of creditors has not been concluded and was continued to October 31, 2024. A review of the court's docket shows that the continued meeting of creditors held October 31, 2024, was held and concluded. Therefore, the Trustee's reasons for objecting to confirmation are resolved and overruled as moot.

That being said, the plan is nonetheless not confirmable for reasons stated at Item #5, KMM-1.

The objection is ORDERED DENIED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

7. [24-90238](#)-B-13 RICHARD GIVARGIS
[LGT](#)-2 David C. Johnston

CONTINUED MOTION TO DISMISS
CASE
10-7-24 [[31](#)]

Final Ruling

This matter was continued from October 29, 2024, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, November 1, 2024. Debtor filed a timely response and a first amended plan with a scheduled confirmation hearing date of December 17, 2024, at 1:00 p.m. This resolves the basis for dismissing the case at this time.

Therefore, the court's conditional ruling at dkt. 35 and the continued hearing on November 5, 2024, at 1:00 p.m. are vacated. The motion to dismiss case is denied without prejudice.

The motion is ORDERED DENIED WITHOUT PREJUDICE for reasons stated in the minutes.

The court will issue an order.

8. [24-90472](#)-B-13 CHIQUITA STARK
[LGT](#)-1 Pro Se

CONTINUED MOTION TO DISMISS
CASE
9-27-24 [[53](#)]

Final Ruling

This matter was continued from October 29, 2024, to allow the continued meeting of creditors to conclude and for the Chapter 13 Trustee to file a supplemental declaration by 5:00 p.m. Friday, December 3, 2024.

The Trustee filed a timely response stating that although the meeting of creditors has been continued to November 13, 2024, the case should nonetheless be dismissed because the Debtor has failed to fulfill required duties such as submitting and filing required documents and schedules. Additionally, the Debtor's plan has not been set for hearing with notice to creditors and the Debtor has failed to make any plan payments, with a delinquency of \$766.68 through October 2024.

Given the aforementioned, cause exists to dismiss this case. The motion is granted and the case is dismissed.

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

The court will issue an order.