

**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: November 9, 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  
Sacramento, California

**November 9, 2021 at 1:00 p.m.**

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1. [08-30202](#)-B-13 ERNEST/RONNA CASON MOTION FOR SUMMARY JUDGMENT  
[21-2006](#) PGM-1 9-28-21 [[32](#)]  
CASON ET AL V. REAL TIME  
RESOLUTIONS, INC.

**Final Ruling**

No appearance at the November 9, 2021, hearing is necessary. The court entered an order granting the joint ex parte motion to dismiss motion for summary judgment without prejudice on October 20, 2021. Dkt. 41. Furthermore, the parties entered into a stipulation to dismiss the adversary proceeding. Dkt. 42. The adversary proceeding was dismissed on October 27, 2021.

The court will issue an order.

**November 9, 2021 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). The court has also 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 grant the motion to extend automatic stay.

Debtor seeks to have the provisions of the automatic stay provided by 11 U.S.C. § 362(c)(3) extended beyond 30 days in this case. This is the Debtor's second bankruptcy petition pending in the past 12 months. The Debtor's prior bankruptcy case was dismissed on July 30, 2020, due to delinquency in plan payments and the inability to hold a timely confirmation hearing pursuant to 11 U.S.C. § 1324(b) (case no. 20-21419, dkt. 36). Therefore, pursuant to 11 U.S.C. § 362(c)(3)(A), the provisions of the automatic stay end in their entirety 30 days after filing of the petition. See e.g., *Reswick v. Reswick (In re Reswick)*, 446 B.R. 362 (9th Cir. BAP 2011) (stay terminates in its entirety); accord *Smith v. State of Maine Bureau of Revenue Services (In re Smith)*, 910 F.3d 576 (1st Cir. 2018).

### **Discussion**

Upon motion of a party in interest and after notice and hearing, the court may order the provisions extended beyond 30 days if the filing of the subsequent petition was in good faith. 11 U.S.C. § 362(c)(3)(B). The subsequently filed case is presumed to be filed in bad faith if there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under chapter 7, 11, or 13. *Id.* at § 362(c)(3)(C)(i)(III). The presumption of bad faith may be rebutted by clear and convincing evidence. *Id.* at § 362(c)(3)(C).

In determining if good faith exists, the court considers the totality of the circumstances. *In re Elliot-Cook*, 357 B.R. 811, 814 (Bankr. N.D. Cal. 2006); see also Laura B. Bartell, *Staying the Serial Filer - Interpreting the New Exploding Stay Provisions of § 362(c)(3) of the Bankruptcy Code*, 82 Am. Bankr. L.J. 201, 209-210 (2008).

The Debtor assert that his circumstances have changed because a family court litigation is now resolved, he was able to reduce his domestic support obligations, and he now has funds to complete the proposed plan. Debtor states that this case is filed in order to reorganize his debts and that he has been gainfully employed with the California Department of Fish and Wildlife for more than 11 years.

The Debtor has sufficiently rebutted, by clear and convincing evidence, the presumption of bad faith under the facts of this case and the prior case for the court to extend the automatic stay.

The motion is granted and the automatic stay is extended for all purposes and parties, unless terminated by operation of law or further order of this court.

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

The court will issue an order.

3.     [21-23068](#)-B-13     SAUL/MARIA CABRALES     OBJECTION TO CONFIRMATION OF  
          [APN](#)-1             Gregory J. Smith             PLAN BY U.S. BANK NATIONAL  
          Thru #4                                     ASSOCIATION  
  10-12-21 [[19](#)]

CONTINUED TO 11/23/21 AT 1:00 P.M. TO BE HEARD IN CONJUNCTION WITH DEBTORS'  
OBJECTION TO CLAIM OF U.S. BANK NATIONAL ASSOCIATION.

**Final Ruling**

No appearance at the November 9, 2021, hearing is necessary. The court will issue an  
order.

4.     [21-23068](#)-B-13     SAUL/MARIA CABRALES     OBJECTION TO CONFIRMATION OF  
          [RDG](#)-1             Gregory J. Smith             PLAN BY RUSSELL D. GREER  
  10-14-21 [[26](#)]

CONTINUED TO 11/23/21 AT 1:00 P.M. TO BE HEARD IN CONJUNCTION WITH DEBTORS'  
OBJECTION TO CLAIM OF U.S. BANK NATIONAL ASSOCIATION.

**Final Ruling**

No appearance at the November 9, 2021, hearing is necessary. The court will issue an  
order.

5. [20-25153](#)-B-13 MICHAEL/JOLENE YATES  
[CLH](#)-4 Charles L. Hastings

CONTINUED MOTION TO CONFIRM  
PLAN  
7-6-21 [[88](#)]

### **Final Ruling**

The motion to confirm plan was continued from August 24, 2021, to September 7, 2021, to October 5, 2021, to November 2, 2021, and finally to November 9, 2021. The motion was originally 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). Opposition was filed.

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 confirm the amended plan on condition that judgment is entered against debtors Michael Yates and Jolene Yates ("Debtors") in the pending district court action *United States v. Yates*, 2:20-cv-00345 (E.D. Cal) and the Internal Revenue Service withdraws its objection to confirmation pursuant to the joint statement at dkt. 131.

The amended plan will be deemed to comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and will be confirmed.

The motion is ORDERED CONDITIONALLY GRANTED for reasons stated in the minutes. Counsel for the Debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

6. [21-20770](#)-B-13 ANGELAS ASHLEY  
[RDG](#)-1 Jennifer G. Lee

CONTINUED AMENDED OBJECTION TO  
CLAIM OF INTERNAL REVENUE  
SERVICE, CLAIM NUMBER 10  
9-29-21 [[47](#)]

**Final Ruling**

This matter was continued from November 2, 2021, to allow any party in interest to file a response by 5:00 p.m. on Friday, November 5, 2021. No response was timely filed. Therefore, the court's conditional ruling at dkt. 54 shall become the court's final decision. The continued hearing set for November 9, 2021, at 1:00 p.m. is vacated.

The court will issue an order.