

**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: December 3, 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  
Sacramento, California

**December 3, 2024 at 1:00 p.m.**

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1. [24-21512](#)-B-13 MARZETTA THOMPSON CONTINUED MOTION TO CONFIRM  
[PGM](#)-1 Peter G. Macaluso PLAN  
10-14-24 [[38](#)]

CONTINUED TO 12/10/24 AT 1:00 P.M. AT DEBTOR'S REQUEST TO SUPPLEMENT THE RECORD.  
DEBTOR SHALL FILE SUPPLEMENTAL DOCUMENTATION BY 12/05/25. TRUSTEE SHALL FILE A REPLY  
BY 12/06/24.

**Final Ruling**

No appearance at the December 3, 2024, hearing is required. The court will issue an  
order.

2. [24-21920](#)-B-13 RICARDO/SAMANTHA  
[CLH](#)-1 RODRIGUEZ  
Charles L. Hastings

MOTION TO CONFIRM PLAN  
10-23-24 [[53](#)]

### **Final Ruling**

The motion has 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 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). 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 not confirm the first amended plan.

First, 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' plan proposes payments of \$1,500.00 in months 1 through 5 and \$1,360.41 in months 6 through 60. However, Debtors' amended Schedule J evidences disposable income of only \$298.50.

Second, Debtors included adjustments to their rental expenses, utility expenses, and home maintenance. Documentation is needed as to how these numbers were determined. Without this information, it cannot be determined whether the plan provides that all of Debtors' projected disposable income to be received in the applicable commitment period will be applied to make payments to unsecured creditors under the plan. 11 U.S.C. § 1325(b).

Third, Debtors' plan fails to comply with 11 U.S.C. §1325(b)(1)(B) because their projected disposable income is not being applied to make payments to unsecured creditors. Based on Debtors' schedules, the projected disposable income available to pay unsecured creditors is \$1,360.41 for 60 months, resulting in a 93% dividend to general unsecured creditors. Debtor's plan provides for a 0% distribution to unsecured creditors.

Fourth, Section 3.05 of Debtors' plan provides for the balance of attorney fees of \$6,175.00 to be paid through the plan. However, Section 3.06 of Debtors' plan fails to state the monthly dividend payable for those attorney fees. Pursuant to Local Bankruptcy Rule 2016-1(c)(4)(B), the payment of flat fees must be paid in equal monthly installments over the term of the plan.

The amended plan does not comply with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is not confirmed.

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

The court will issue an order.

3. [24-23745](#)-B-13 DENON/LAQUANA MARYLAND  
[LGT](#)-1 Candace Y. Brooks  
OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
11-7-24 [[24](#)]

### **Final Ruling**

The *initial* Chapter 13 Plan filed August 22, 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 December 10, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, the Attachment to Schedule I which provides for Debtors' business income and expenses needs to be filed for Maryland Empowerment. Without this document, it cannot be determined whether Debtors' plan is feasible and pays all projected disposable income for the applicable commitment period to Debtors' general unsecured creditors. 11 U.S.C. § 1325(a)(6) and (b)(1).

Second, Debtors' plan is not feasible because monthly plan payments will need to be increased by at least \$24.00 in order for the plan to pay unsecured creditors 0% as proposed. 11 U.S.C. § 1325(a)(6).

Third, additional documents are required, specifically profit and loss statements of all of Debtors' businesses for the 5-month period prior to filing, and all payment advices and 1099s, if applicable, for Joint Debtor for the 6-month period prior to filing. Without this documentation, it cannot be determined whether Debtors are paying all their projected disposable income to their unsecured creditors under their plan in accordance with 11 U.S.C. § 1325(b).

The plan filed August 22, 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 December 6, 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 December 10, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on December 10, 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. [24-24149](#)-B-13 ANTHONY/SONNA JOHNSON OBJECTION TO CONFIRMATION OF  
[SKI](#)-1 Julius J. Cherry PLAN BY SANTANDER CONSUMER USA  
INC.  
11-5-24 [[16](#)]

**Final Ruling**

Creditor Santander Consumer USA Inc. ("Creditor") and debtors Anthony Johnson and Sonna Johnson ("Debtors") reached an agreement on November 26, 2024, resolving Creditor's objection to confirmation of plan.

There being no other objections, the plan filed September 17, 2024, complies with 11 U.S.C. §§ 1322 and 1325(a). The objection is overruled as moot and the plan is confirmed.

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

IT IS FURTHER ORDERED that the plan is CONFIRMED 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.

5.     [24-20254](#)-B-13     MARLON MAYO                             CONTINUED MOTION TO DISMISS  
          [EAM](#)-3                 Peter G. Macaluso                   CASE  
          Thru #6   7-2-24 [[67](#)]

**Final Ruling**

The case having been converted at Item #6, LGT-2, creditor DPS Finance Company's motion to dismiss case is denied as moot.

The motion is ORDERED DENIED AS MOOT for reasons stated in the minutes.

The court will issue an order.

6.     [24-20254](#)-B-13     MARLON MAYO                             CONTINUED MOTION TO DISMISS  
          [LGT](#)-2                 Peter G. Macaluso                   CASE  
   8-27-24 [[80](#)]

**Final Ruling**

This motion was continued from October 29, 2024, and was originally set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). Opposition was filed by debtor Marlon Mayo ("Debtor") requesting a continuance of 30 days in order to obtain a loan modification. Debtor has not submitted any declaration or evidence indicating that a loan modification has been obtained.

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 grant the motion to convert this case to one under chapter 7.

The Chapter 13 Trustee moves to dismiss or convert this case on grounds that Debtor failed to confirm a chapter 13 plan and is delinquent in the amount of at least \$18,420.00 as of August 27, 2024. This is an unreasonable delay by Debtor that is prejudicial to creditors. 11 U.S.C. §1307(c)(1). Because there is non-exempt equity based on Debtor's schedules, conversion rather than dismissal is in the best interest of creditors of the estate.

Cause exists to convert this case. The motion is granted and the case is converted to one under chapter 7.

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

The court will issue an order.

7. [23-23456](#)-B-13 GERARDO MEDEL  
[HWW](#)-5 Hank W. Walth

MOTION TO MODIFY PLAN  
10-22-24 [[76](#)]

DEBTOR DISMISSED: 10/24/24

**Final Ruling**

The case having been dismissed on October 24, 2024, the motion to modify plan is denied as moot.

The motion is ORDERED DENIED AS MOOT for reasons stated in the minutes.

The court will issue an order.

8. [24-24073](#)-B-13 JAMES/IRMA WELDON OBJECTION TO CONFIRMATION OF  
[KMM](#)-1 Candace Y. Brooks PLAN BY WELLS FARGO BANK, N.A.  
**Thru #9** 10-17-24 [[23](#)]

**Final Ruling**

Debtors James Weldon and Irma Weldon ("Debtors") and creditor Wells Fargo Bank, N.A. dba Wells Fargo Auto ("Creditor") entered into a stipulation agreeing that Creditor's claim will be provided for in the plan in a specified amount. The court entered an order on November 22, 2024, approving the stipulation. This resolves the issues raised by the Creditor in its objection and the objection is overruled as moot.

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

The court will issue an order.

9. [24-24073](#)-B-13 JAMES/IRMA WELDON OBJECTION TO CONFIRMATION OF  
[LGT](#)-1 Candace Y. Brooks PLAN BY LILIAN G. TSANG  
11-7-24 [[33](#)]

**Final Ruling**

The *initial* Chapter 13 Plan filed September 12, 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 December 10, 2024, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Joint Debtor's pay stub dated October 4, 2024, provides a year-to-date total through September 29, 2024. The average monthly gross income calculated from this total is \$1,554.04, which is greater than amended Form 122C-1 that lists gross income of \$264.00. It appears Joint Debtor's income may actually be higher than shown on the Form 122C-1. Without clarification, it cannot be determined if the plan was filed in good faith, or if it pays in all of the Debtor's disposable income for the remaining term of his plan.

Second, Debtor testified at the 341 meeting of creditors that his retirement loan would be paid off around March 2025. Therefore, the plan payment must be increased from \$1,997.00 to \$2,030.00 beginning in April 2025.

Third, the plan provides for payments to creditors for a period longer than 5 years. 11 U.S.C. § 1322(d). Paragraph 2.01 of Debtors' plan provides for a monthly plan payment of \$1,997.00. Debtors have not provided admissible evidence that the plan is mathematically feasible. Schedule E lists total priority debt of \$72,403.00 versus the plan amount of \$28,292.00. Additionally, after accounting for the pay off of Debtor's retirement loan, plan payments must be increased.

Fourth, Debtors' plan provides for OneMain Financial Group LLC and Wells Fargo Bank NA as Class 2 claims and proposes to pay the values of the autos securing those claims. The court has not entered orders on appropriate motions to value the vehicles.

Fifth, the plan does not provide for all of Debtors' projected disposable income to be applied to unsecured creditors under the plan. 11 U.S.C. § 1325(b)(1)(B). Debtors' Form 122C-2 Chapter 13 Calculation of Your Disposable Income deducts \$2,669.00 at line 9a. However, the correct National Standard deduction is \$2,382.00. When the correct National Standard deduction is used, the calculation of disposable income at line 45 of Form 122C-2 will result in the amount of \$685.98.



Sixth, Debtors' plan proposes to pay a dividend of 31% or \$22,630.00 to unsecured creditors. Line 45 of Debtors' Chapter 13 Calculation of Your Disposable Income, once corrected, will calculate a monthly disposable income of \$685.98, or \$41,159.00 available to pay unsecured creditors over the life of the plan. A review of the court's docket reveals there is a total of \$22,630.00 in filed unsecured claims. Therefore, Debtors' available disposable income requires a 56.38% plan

The plan filed September 12, 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 December 6, 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 December 10, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on December 10, 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.

10. [23-20686](#)-B-13 SAMUEL/DEBORAH POWERS MOTION TO MODIFY PLAN  
[MJD](#)-2 Matthew J. DeCaminada 10-21-24 [[56](#)]

**Final Ruling**

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rules 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). 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). 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 not permit the requested modification and not confirm the modified plan.

Section 1.02 of Debtors' plan provides that if there are nonstandard provisions, the box must be checked. A nonstandard provision will be given no effect unless this section indicates one is included in section 7 and it appears in section 7. While the plan does provide for additional provisions at Sections 7.01 and 7.02, the box at Section 1.02 has not been checked.

No reply has been filed by Debtors.

The modified plan does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

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

The court will issue an order.

11. [24-22492](#)-B-13 SHANA BRADLEY  
[PGM](#)-1 Peter G. Macaluso

MOTION TO CONFIRM PLAN  
10-23-24 [[64](#)]

**Final Ruling**

The Chapter 13 Trustee having filed a notice of withdrawal of its motion, the motion is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2) and Federal Rules of Bankruptcy Procedure 9014 and 7041.

There being no other objection to confirmation, the plan filed October 23, 2024, will be confirmed.

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

IT IS FURTHER ORDERED that the plan is CONFIRMED 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.