

**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 7, 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

December 7, 2021 at 1:00 p.m.

1. [21-22813](#)-B-13 AARON/RACHEL STUART MOTION TO CONFIRM PLAN
[KRW](#)-1 Keith R. Wood 10-11-21 [[24](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 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). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtors have provided evidence in support of confirmation. An opposition to the motion was filed by the Chapter 13 Trustee and subsequently withdrawn. No other opposition has been filed by any creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The motion is ORDERED 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.

December 7, 2021 at 1:00 p.m.

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 confirm the second amended plan.

The Chapter 13 Trustee filed an objection to confirmation stating that the Debtor's plan may not be feasible under 11 U.S.C. § 1325(a)(6) since plan payments are insufficient to cover total monthly payments and the Trustee's fees and expenses. The Trustee state that the average plan payment will need to be at least \$897.00 in order for the plan to be feasible as proposed, pay secured and priority claims in full, and pay unsecured claims 0%.

Debtor filed a response acknowledging that plan payments should be increased and stating that the order confirming can provide for the increase in plan payments as follows: \$699.00 per month for months 1 and 2; \$750.00 for month 3; \$868.65 for months 4 and 5; and \$908.00 per month for months 6 through 60.

The amended plan complies with 11 U.S.C. §§ 1322, 1323, and 1325(a) and is confirmed.

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

3. [20-21219](#)-B-13 LEONARD/RHONDA HENDRICKS MOTION TO MODIFY PLAN
[DEF](#)-4 David Foyil 10-7-21 [[53](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 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). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtors have filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED 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.

4. [21-23220](#)-B-13 HARDEEP SINGH
[RDG](#)-1 David C. Johnston

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D. GREER
10-29-21 [[19](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). 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 sustain the objection and deny confirmation of the plan.

Debtor's plan may not be proposed in good faith under 11 U.S.C. § 1325(a)(3). The Debtor has not provided for all disposable income on Schedule I and has yet to provide the Chapter 13 Trustee with a detailed month-by-month analysis as to how the income figure on Schedule I was computed.

The other issue raised by the Chapter 13 Trustee has been resolved. The Debtor appeared at the continued meeting of creditors held on December 1, 2021, and provided confirmation of her identification. The meeting was concluded as to the Debtor.

Due to the unresolved aforementioned issue, the plan filed September 21, 2021, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

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

The court will issue an order.

5. [21-23226](#)-B-13 ALICIA YASSIN
[RDG](#)-1 David C. Johnston

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D. GREER
10-29-21 [[26](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). 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 sustain the objection and deny confirmation of the plan.

Debtor's plan may not be proposed in good faith under 11 U.S.C. § 1325(a)(3). The Debtor has not specified when her retirement loan pays in full and when the plan payments are to increase when it is paid in full. Additionally, Debtor's unsecured creditors are still at risk of a subsequent modification lowering the distribution to Class 7 creditors and Debtor's plan would pay creditors much more quickly if Debtor was to commit to plan payments of \$8,133.00.

The other issue raised by the Chapter 13 Trustee has been resolved. The Debtor appeared at the continued meeting of creditors held on December 1, 2021, provided confirmation of her identification, provided pay advices, and provided a copy of her 2020 federal and state tax returns. The meeting was concluded as to the Debtor.

Due to the unresolved aforementioned issue, the plan filed September 21, 2021, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

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

The court will issue an order.

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 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). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtor has filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

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

7. [17-26647](#)-B-13 ESMERALDA GARCIA MOTION TO SELL
[JCK](#)-6 Kathleen H. Crist 11-17-21 [[85](#)]

Final Ruling

The Chapter 13 Debtor having filed a notice of withdrawal of its motion, the motion is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(I) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

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

8. [21-23254](#)-B-13 DAVID/ANN READING
[JAD](#)-2 Jessica A. Dorn

MOTION TO CONFIRM PLAN
10-20-21 [[23](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 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). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to confirm the amended plan.

11 U.S.C. § 1323 permits a debtor to amend a plan any time before confirmation. The Debtors have provided evidence in support of confirmation. No opposition to the motion has been filed by the Chapter 13 Trustee or creditors. The amended plan complies with 11 U.S.C. §§ 1322 and 1325(a) and is confirmed.

The motion is ORDERED 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.

9. [16-25055](#)-B-13 HANK WALTH
[HWW](#)-12 Hank W. Walth

MOTION TO MODIFY PLAN
11-2-21 [[156](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 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). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtor has filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

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

10. [17-27960](#)-B-13 CRAIG GILMORE
[KBP](#)-1 G. Michael Williams

MOTION TO COMPEL AND/OR MOTION
TO SELL
10-28-21 [[171](#)]

Final Ruling

No appearance is necessary. The court entered an order on November 29, 2021, dkt. 190, denying the motion and vacating the hearing set for December 7, 2021, at 1:00 p.m.

11. [21-23263](#)-B-13 MONIQUE COLLINS
[RDG](#)-1 Selwyn D. Whitehead

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
11-8-21 [[20](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Nonetheless, the court determines that the resolution of this matter does not require oral argument. See Local Bankr. R. 9014-1(h).

The court's decision is to overrule the objection as moot.

Subsequent to the filing of the Trustee's objection, the Debtor filed an amended plan on November 23, 2021. The confirmation hearing for the amended plan has not been set. Nonetheless, the earlier plan filed September 16, 2021, is not confirmed.

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

The court will issue an order.

12. [21-23068](#)-B-13 SAUL/MARIA CABRALES CONTINUED OBJECTION TO
[APN](#)-1 Kathleen H. Crist CONFIRMATION OF PLAN BY U.S.
Thru #14 BANK NATIONAL ASSOCIATION
10-12-21 [[19](#)]

HEARING TO BE HELD ON 12/14/2021 at 1:00 PM at Sacramento Courtroom 32,
Department B.

Final Ruling

No appearance at the December 7, 2021, hearing is required. The parties filed an agreement on December 3, 2021, to continue the matter to December 14, 2021, at 1:00 p.m.

The court will issue an order.

13. [21-23068](#)-B-13 SAUL/MARIA CABRALES CONTINUED OBJECTION TO CLAIM OF
[JCK](#)-1 Kathleen H. Crist U.S. BANK NATIONAL ASSOCIATION,
CLAIM NUMBER 1
10-5-21 [[15](#)]

HEARING TO BE HELD ON 12/14/2021 at 1:00 PM at Sacramento Courtroom 32,
Department B.

Final Ruling

No appearance at the December 7, 2021, hearing is required. The parties filed an agreement on December 3, 2021, to continue the matter to December 14, 2021, at 1:00 p.m.

The court will issue an order.

14. [21-23068](#)-B-13 SAUL/MARIA CABRALES CONTINUED OBJECTION TO
[RDG](#)-1 Kathleen H. Crist CONFIRMATION OF PLAN BY RUSSELL
D. GREER
10-14-21 [[26](#)]

HEARING TO BE HELD ON 12/14/2021 at 1:00 PM at Sacramento Courtroom 32,
Department B.

Final Ruling

No appearance at the December 7, 2021, hearing is required. The parties filed an agreement on December 3, 2021, to continue the matter to December 14, 2021, at 1:00 p.m.

The court will issue an order.

15. [21-23268](#)-B-13 RAUL JUAREZ
[RDG-1](#) Charles L. Hastings
Thru #16

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
11-4-21 [[36](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). 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 sustain the objection and deny confirmation of the plan.

First, Debtor has failed to file all pre-petition tax returns required for the four years preceding the filing of the petition pursuant to 11 U.S.C. §1308 and §1325(a)(9). Debtor admitted at the meeting of creditors held on November 3, 2021, that federal tax returns for the years 2015 through 2020 have not been filed.

Second, Debtor's plan fails the liquidation test of 11 U.S.C. §1325(a)(4). Debtor's schedules list non-exempt assets totaling \$14,100.00, and unsecured priority claims totaling \$192.37 (as filed). Accordingly, there are non-exempt assets available for distribution to Debtor's general unsecured creditors of \$13,907.63 (\$14,100.00 minus \$192.37). The Trustee estimates, based on a review and analysis of Debtor's schedules and claims filed to date, that Debtor has non-priority general unsecured claims totaling \$24,235.03. In order to meet the liquidation test of 11 U.S.C. §1325(a)(4), Debtor's plan must pay 57% (\$13,907.63 divided by \$24,235.03) to Debtor's general unsecured creditors. Debtor's plan pays 0%.

Third, Debtor's Schedule J and testimony at the meeting of creditors indicate that the Debtor does not have sufficient monthly income to make the proposed plan payment of \$5,071.57 per month as provided for in Section 2.01 of the plan.

Fourth, in order to pay unsecured creditors the liquidation amount of 57%, plan payments will need to be at least \$5,252.00 per month.

Fifth, Debtor's plan lists a claim to Quality Loan Service Corporation in Class 2 with a secured claim amount of \$269,863.99 but fails to provide a monthly dividend payable for that claim.

The plan filed September 30, 2021, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

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

The court will issue an order.

16. [21-23268](#)-B-13 RAUL JUAREZ
[RLS](#)-1 Charles L. Hastings

OBJECTION TO CONFIRMATION OF
PLAN BY FORETHOUGHT LIFE
INSURANCE COMPANY
11-10-21 [[44](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankruptcy Rules 3015-1(c)(4) & (d)(1) and 9014-1(f)(2). Parties in interest may, at least 7 days prior to the date of the hearing, serve and file with the court a written reply to any written opposition. Local Bankruptcy Rule 9014-1(f)(1)(C). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). 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 sustain the objection and deny confirmation of the plan.

Objecting creditor Forethought Life Insurance Company ("Creditor") holds a deed of trust secured by real property commonly known as 1930 Pyrenees Avenue, Stockton, California ("Property"). Creditor states that the Debtor appears to reside at the Property and claims an equitable interest in the Property, but he is not an owner of the Property and is not a party to the underlying security instruments.

Creditor filed a timely proof of claim in which it asserts \$270,151.42 in pre-petition default since the loan matured on July 1, 2020. Although listed in Class 2(A) of the plan, 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 September 30, 2021, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

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

The court will issue an order.

17. [21-22565](#)-B-13 MICHAEL/TANIKA ZUNIGA CONTINUED MOTION TO DISMISS
[RDG](#)-2 Michael K. Moore CASE
11-10-21 [[26](#)]

Final Ruling

This matter was continued from November 30, 2021, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, December 3, 2021. Debtors filed a timely response and a first amended plan on December 2, 2021, with a scheduled confirmation hearing date of January 11, 2021, at 1:00 p.m. This resolves the basis for dismissing the case at this time.

Therefore, the court's conditional ruling at dkt. 31 and the continued hearing on December 7, 2021, 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.

18. [21-20770](#)-B-13 ANGELAS ASHLEY
[RDG](#)-2 Jennifer G. Lee

CONTINUED MOTION TO DISMISS
CASE
11-10-21 [[57](#)]

Final Ruling

This matter was continued from November 30, 2021, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, December 3, 2021. Debtor filed a second amended plan on December 3, 2021, with a scheduled confirmation hearing date of January 18, 2021, at 1:00 p.m. This resolves the basis for dismissing the case at this time.

Therefore, the court's conditional ruling at dkt. 62 and the continued hearing on December 7, 2021, 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.

19. [21-22595](#)-B-13 IBRAR KHAN
[RDG](#)-2 Gabriel E. Liberman

CONTINUED MOTION TO DISMISS
CASE
11-10-21 [[37](#)]

Final Ruling

This matter was continued from November 30, 2021, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, December 3, 2021. Nothing was filed. Therefore, the court's conditional ruling at dkt. 41, granting the motion to dismiss case, shall become the court's final decision. The continued hearing on December 7, 2021, at 1:00 p.m. is vacated.

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

The court will issue an order.