

**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 13, 2022

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 13, 2022 at 1:00 p.m.

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1. [19-23100](#)-B-13 REVOYDA STARLING MOTION FOR COMPENSATION FOR
[GEL](#)-2 Gabriel E. Liberman GABRIEL E. LIBERMAN, DEBTORS
ATTORNEY(S)
11-16-22 [[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 for compensation and continue the matter to December 20, 2022, at 1:00 p.m.

Fees and Costs Requested

Gabriel Liberman ("Movant"), the attorney to Chapter 13 Debtor, makes a request for the allowance of \$3,500.00 in fees and \$0.00 in expenses. Counsel has been representing Debtor since August 11, 2022, after Debtor hired Movant and substituted her former counsel. Debtor's plan had been confirmed prior to Movant's substitution but Debtor was looking to refinance her primary residence. Movant worked with Debtor to refinance her primary residence.

Section 330(a) of the Bankruptcy Code authorizes "reasonable compensation for actual, necessary services" rendered by a trustee, examiner or professional person employed under § 327 or § 1103 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Reasonable compensation is determined by considering all relevant factors. See *id.* § 330(a)(3).

Here, Movant's services in the relevant period included: (1) general correspondences with Debtor, her prior counsel, and her real estate broker relating to substituting into the case and refinancing her home, (2) motion to approve refinance, and (3) the present motion for compensation. Movant's usual hourly rate is \$320.00 per hour and he spent 11.2 hours prosecuting the referenced tasks for a total attorney time of \$3,558.00. Movant has agreed to reduce his fees to \$3,500.00. The court finds that the compensation sought is reasonable, actual, and necessary, and the court will approve the motion.

Movant is allowed, and the Trustee is authorized to pay, the following amounts as compensation to this professional in this case:

Fees	\$3,500.00
Costs and Expenses	\$0.00

December 13, 2022 at 1:00 p.m.

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, December 16, 2022, 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 December 20, 2022, 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 December 20, 2022, at 1:00 p.m.

2. [22-22415](#)-B-13 TIMOTHY WILSON MOTION TO DISMISS CASE
GB-[3](#) Pro Se 11-22-22 [[29](#)]
Thru #3

Final Ruling

The motion is filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2). Inasmuch as Debtor Timothy Wilson is appearing pro se, the court finds there is good cause to continue the hearing and set a briefing schedule. See Local Bankr. R. 9014-1(f)(2)(C). Therefore,

(1) the hearing on the motion is continued to **January 10, 2023, at 1:00 p.m.**;

(2) any opposition or other response shall be filed and served by **December 27, 2022**; and

(3) any reply shall be filed and served by **January 3, 2023**.

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

The court will issue an order.

3. [22-22415](#)-B-13 TIMOTHY WILSON MOTION FOR RELIEF FROM
GB-[4](#) Pro Se AUTOMATIC STAY
11-29-22 [[35](#)]

UMPQUA BANK VS.

Final Ruling

The motion is filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2). Inasmuch as Debtor Timothy Wilson is appearing pro se, the court finds there is good cause to continue the hearing and set a briefing schedule. See Local Bankr. R. 9014-1(f)(2)(C). Therefore,

(1) the hearing on the motion is continued to **January 10, 2023, at 1:00 p.m.**;

(2) any opposition or other response shall be filed and served by **December 27, 2022**; and

(3) any reply shall be filed and served by **January 3, 2023**.

Further, because the motion is filed, set, and served under Local Bankr. R. 9014-1(f)(2) the time limits of 11 U.S.C. § 362(e) are deemed waived. See Local Bankr. R. 9014-1(f)(2)(B) ("The use of this alternative procedure in connection with a motion for relief from the automatic stay shall be deemed a waiver of the time limitations contained in 11 U.S.C. § 362(e).").

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

The court will issue an order.

4. [20-20322](#)-B-13 JEREMY/MELISSA MARTIN MOTION TO MODIFY PLAN
[JCK](#)-5 Gregory J. Smith 11-4-22 [[94](#)]

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.

5. [19-24371](#)-B-13 SHAWNTE/MONIQUE
[WLG](#)-5 LIVINGSTON
Nicholas Wajda

MOTION TO INCUR DEBT
11-7-22 [[90](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). 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 **continue the hearing on the motion to incur debt to December 20, 2022, at 1:00 p.m.** and require the Debtors to (1) identify the address of the subject property, (2) provide the Chapter 13 Trustee with an estimated closing statement, and (3) file a notice of compliance by **Thursday, December 15, 2022.**

Debtors seek permission to refinance their home loan. They are in default on their plan payments in the amount of \$12,078.00. Debtors wish to address the default and use funds from the home loan refinance to pay off the remaining balance of their chapter 13 plan.

The Chapter 13 Trustee filed an objection stating that no estimated closing statement was provided with the motion. Without an estimated closing statement, it cannot be determined if there are sufficient proceeds to pay the Debtors' case in full and what liens are to be paid through escrow absent an estimated closing statement.

If items (1), (2), and (3) are timely performed and the estimated closing statement is satisfactory to the Chapter 13 Trustee, the objection shall be withdrawn by **Monday, December 19, 2022**, and the motion will be granted on December 20, 2022, without further hearing.

If the Debtors fail to perform any of the items referenced above, or if the closing statement is not satisfactory to the Chapter 13 Trustee, the objection will be sustained and the motion denied on December 20, 2022, for the reasons stated hereinabove.

Therefore, the motion to incur debt is continued.

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

The court will issue an order.

6. [22-21576](#)-B-13 MARITZA RODRIGUEZ MOTION TO CONFIRM PLAN
[JBR](#)-2 Jennifer B. Reichhoff 10-30-22 [[27](#)]

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 Debtor has 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 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.

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.

First, the Debtor is delinquent in plan payments. The motion and declaration are silent as to why the Debtor is delinquent in the amount of \$14,209.08 under the currently confirmed plan, and why these funds were not paid to the Trustee. Furthermore, without knowing the reasons for the delinquency, it cannot be determined whether the cause of the delinquency has been rectified, and if Debtor will be able to make future plan payments/

Second, the plan is not feasible under 11 U.S.C. § 1325(a)(6). Payments to secured creditors plus the Chapter 13 Trustee's compensation and expenses total \$1,155.02. Debtor's plan payments are only \$695.00 per month beginning November 2022.

Third, the plan proposes to reclassify the Class 1 claim of Fay Servicing LLC as a Class 4 claim to be paid outside of the plan. Until Fay Servicing LLC files an amended proof of claim or the Debtor successfully objects to the proof of claim, the plan is not feasible.

Fourth, items 13-18 of Debtor's motion do not appear to be applicable to Debtor's case. Without clarification, it cannot be determined if Debtor's plan is feasible

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.

8. [22-22493](#)-B-13 BERNARDO DE GUZMAN OBJECTION TO CONFIRMATION OF
[RDG](#)-1 Simran Singh Hundal PLAN BY RUSSELL D. GREER
11-21-22 [[16](#)]

CONTINUED TO 1/03/22 AT 1:00 P.M. TO BE HEARD IN CONJUNCTION WITH DEBTOR'S
MOTION TO VALUE COLLATERAL.

Final Ruling

No appearance at the December 13, 2022, hearing is required. The court will issue an
order.

9. [22-22041](#)-B-13 GERALDINE OSEI CONTINUED OBJECTION TO CLAIM OF
[RDG](#)-1 Keith R. Wood QUANTUM3 GROUP LLC AS AGENT FOR
CF MEDICAL LLC, CLAIM NUMBER 4
11-2-22 [[30](#)]

Final Ruling

This matter was continued from December 6, 2022, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, December 9, 2022. Nothing was filed. Therefore, the court's conditional ruling at dkt. 35, sustaining the objection to claim, shall become the court's final decision. The continued hearing on December 13, 2022, at 1:00 p.m. is vacated.

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

The court will issue an order.