

**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 17, 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 17, 2024 at 1:00 p.m.

1.	24-24221 -B-13	RITA HICKS	ORDER TO SHOW CAUSE - FAILURE
		Brian S. Haddix	TO PAY FEES
			11-27-24 [20]

Final Ruling

The court's decision is to sustain the Order to Show Cause and order the case dismissed.

The Order to Show Cause was issued due to Debtor's failure to pay \$78.00 due November 12, 2024. The court's docket reflects that the default has not been cured.

The order to show cause is SUSTAINED for reasons stated in the minutes and the case is DISMISSED.

The court will issue an order.

December 17, 2024 at 1:00 p.m.

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2. [24-22927](#)-B-13 ELIZABETH WILSON
[JCK](#)-1 Gregory J. Smith

MOTION TO CONFIRM PLAN
11-1-24 [[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. 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.

3. [24-24634](#)-B-13 JORGE MALDONADO AND OBJECTION TO CONFIRMATION OF
[LGT](#)-1 FIDELINA HUERTA PLAN BY TRUSTEE LILIAN G. TSANG
Peter G. Macaluso 11-25-24 [[14](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankr. R. 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 Bankr. R. 9014-1(f)(1)(C). Debtors filed a reply agreeing that the current plan is not confirmable and that the objection should be sustained.

Therefore, the plan filed October 15, 2024, 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.

4. [24-24435](#)-B-13 MICHAEL KAWASAKI
[LGT](#)-1 Julius J. Cherry

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
11-19-24 [[14](#)]

Final Ruling

The *initial* Chapter 13 Plan filed October 1, 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 January 7, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtor has not fully exempted the 2010 Toyota Camry and thus there is liquidation in the amount of \$1,800.00.

Second, Non-filing spouse's pay stubs reflect that her regular pay has increased, and her on-going income is now \$8,465.14 per month. This increase is reflected on the August 20, 2024, pay stub. Therefore, Debtor's Form 122C regarding the non-filing spouse's income for the period of 04/01/2024 to 09/30/2024 is incorrect. Schedule I should be amended to reflect the correct on-going income as well.

Third, additional documentation is requested for expenses listed on Form 122C-2 for #22 additional health care expenses of \$1,434.00, #26 continuing contribution of \$1,500.00 to the care of household or family members, and #31 continuing charitable contributions of \$400.00.

Fourth, the plan does not provide for increase in payments by \$926.00 after Debtor's retirement loan matures on January 28, 2027.

Fifth, it is unclear when comparing Debtor's schedules and pay stubs whether deductions are retirement loan or voluntary contributions. Additional documentation and/or amendments to the schedules are needed.

The plan filed October 1, 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 20, 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 January 7, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on January 7, 2025, at 1:00 p.m.

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

The court will issue an order.

5. [24-24537](#)-B-13 HARPREET SINGH OBJECTION TO CONFIRMATION OF
 [LGT](#)-1 Kristy A. Hernandez PLAN BY LILIAN G. TSANG
 11-22-24 [\[28\]](#)

CONTINUED TO 1/07/25 AT 1:00 P.M. IN SACRAMENTO COURTROOM TO BE HEARD AFTER THE
CONTINUED MEETING OF CREDITORS SET FOR 12/19/24.

Final Ruling

No appearance at the December 17, 2024, hearing is required. The court will issue an
order.

6. [24-23640](#)-B-13 RICARDO BENAVIDES
Pro Se

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
11-19-24 [[38](#)]

DEBTOR DISMISSED: 12/02/24

Final Ruling

The case having previously been dismissed, the order to show cause is discharged as moot with no sanctions ordered.

The order to show cause is ORDERED DISCHARGED AS MOOT for reasons stated in the minutes.

The court will issue an order.

7. [24-24447](#)-B-13 JAMES/JESSICA ARIAS
[JCW](#)-1 Mohammad M. Mokarram

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-19-24 [[14](#)]

FORD MOTOR CREDIT COMPANY
LLC VS.

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). 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 grant the motion for relief from automatic stay.

Ford Motor Credit Company LLC ("Movant") seeks relief from the automatic stay with respect to an asset identified as a 2021 Ford Edge ST-Line Sport Utility 4D (the "Vehicle"). The moving party has provided the Declaration of Pamela Rucker to introduce into evidence the documents upon which it bases the claim and the obligation owed by the Debtor.

The Rucker Declaration states that there are 2.950 pre-petition payments in default totaling \$2,389.96. Additionally, there is 1 post-petition payment in default totaling \$809.99.

From the evidence provided to the court, and only for purposes of this motion, the debt secured by this asset is determined to be \$36,731.42, as stated in the Rucker Declaration, while the value of the Vehicle is determined to be \$36,609.00, as stated in Schedules A/B and D filed by Debtor.

Discussion

The court maintains the right to grant relief from stay for cause when a debtor has not been diligent in carrying out his or her duties in the bankruptcy case, has not made required payments, or is using bankruptcy as a means to delay payment or foreclosure. *In re Harlan*, 783 F.2d 839 (B.A.P. 9th Cir. 1986); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985). The court determines that cause exists for terminating the automatic stay since the Debtors and the estate have not made post-petition payments. 11 U.S.C. § 362(d)(1); *In re Ellis*, 60 B.R. 432 (B.A.P. 9th Cir. 1985).

Additionally, once a movant under 11 U.S.C. § 362(d)(2) establishes that a debtor or estate has no equity, it is the burden of the debtor or trustee to establish that the collateral at issue is necessary to an effective reorganization. *United Savings Ass'n of Texas v. Timbers of Inwood Forest Associates. Ltd.*, 484 U.S. 365, 375-76 (1988); 11 U.S.C. § 362(g)(2). Based upon the evidence submitted, the court determines that there is no equity in the Vehicle for either the Debtors or the Estate. 11 U.S.C. § 362(d)(2). And no opposition or showing having been made by the Debtors or the Trustee, the court determines that the Vehicle is not necessary for any effective reorganization in this Chapter 13 case.

The court shall issue an order terminating and vacating the automatic stay to allow creditor, its agents, representatives and successors, and all other creditors having lien rights against the Vehicle, to repossess, dispose of, or sell the asset pursuant to applicable nonbankruptcy law and their contractual rights, and for any purchaser, or successor to a purchaser, to obtain possession of the asset.

There also being no objections from any party, the 14-day stay of enforcement under Rule 4001(a)(3) is waived.

No other or additional relief is granted by the court.

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

The court will issue an order.

8. [24-24548](#)-B-13 MARISA HALL ORDER TO SHOW CAUSE - FAILURE
Thru #9 Peter G. Macaluso TO PAY FEES
11-14-24 [[19](#)]

Final Ruling

The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor to pay the filing fee in installments.

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$79.00 installment when due on November 12, 2024. While the delinquent installment was paid on December 13, 2024, the fact remains that the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

IT IS FURTHER ORDERED that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The court will issue an order.

9. [24-24548](#)-B-13 MARISA HALL OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Peter G. Macaluso PLAN BY LILIAN G. TSANG
11-22-24 [[21](#)]

CONTINUED TO 1/07/25 AT 1:00 P.M. IN SACRAMENTO COURTROOM TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS SET FOR 1/02/25.

Final Ruling

No appearance at the December 17, 2024, hearing is required. The court will issue an order.

10. [24-22459](#)-B-13 JAMIE BRIDGEMAN
[LGT](#)-2 Michael K. Moore

MOTION TO DISMISS CASE
11-21-24 [[57](#)]

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 deny without prejudice the motion to dismiss case.

The Chapter 13 Trustee moves to dismiss case on grounds that Debtor has caused an unreasonable delay that is prejudicial to creditors based on Debtor's failure to file a modified plan with notice to creditors, failure to set a modified plan for hearing with notice to creditors, and delinquency of plan payments in the amount of \$7,695.00 as of November 21, 2024, with an additional payment of \$7,695.00 due November 25, 2024. 11 U.S.C. § 1307(c)(1).

A review of the court's docket shows that Debtor filed a first amended plan and a motion to confirm it on December 15, 2024. This resolves the issues raised to dismiss this case at this time.

Cause does not exist to dismiss this case. The motion is denied and the case will not be dismissed.

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

The court will issue an order.

11. [24-24465](#)-B-13 MATTHEW GREGORIO OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Julius J. Cherry PLAN BY LILIAN G. TSANG
11-19-24 [[12](#)]

CONTINUED TO 1/07/25 AT 1:00 P.M. IN SACRAMENTO COURTROOM TO BE HEARD AFTER THE
CONTINUED MEETING OF CREDITORS SET FOR 1/02/25.

Final Ruling

No appearance at the December 17, 2024, hearing is required. The court will issue an
order.

12. [24-24569](#)-B-13 GARY DIETRICH
[LGT](#)-1 Eric John Schwab

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
11-27-24 [[12](#)]

Final Ruling

The *initial* Chapter 13 Plan filed October 11, 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 January 7, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtor's plan is not feasible because it proposes a monthly payment of \$4,305.00, which is less than the monthly payments to secured creditors totaling \$4,179.25 per month, and with the Chapter 13 Trustee's compensation totals \$4,638.46 per month. The plan is not feasible pursuant to 11 U.S.C. § 1325(a)(6).

Second, the plan provides for Park Place arrears at \$7,590.00. Park Place has filed a proof of claim with arrears at \$17,240.86. Claim 5-1. Therefore, the plan does not fund with the filed claim.

The plan filed October 11, 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 20, 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 January 7, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on January 7, 2025, at 1:00 p.m.

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

The court will issue an order.

13. [24-23070](#)-B-13 LIBERTY PRESTOZA
Muoi Chea

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
11-18-24 [[21](#)]

Final Ruling

The court's decision is to discharge the Order to Show Cause and the case will remain pending.

The Order to Show Cause was issued due to Debtor's failure to pay \$78.00 due November 12, 2024. The court's docket reflects that the default was cured on November 19, 2024. The payment constituted the final installment.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

The court will issue an order.

14. [24-24578](#)-B-13 VALENTYN/OLGA DMYTRIYEV OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Mark Shmorgon PLAN BY LILIAN G. TSANG
11-22-24 [[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 Bankr. R. 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 Bankr. R. 9014-1(f)(1)(C). No written reply has been filed to the objection.

All objections have been resolved and the court has determined that oral argument is not necessary. See Local Bankr. R. 1001-1(f), 9014-1(h). This matter will be decided on the papers. No appearance at the hearing is necessary.

The court's decision is to overrule the objection and confirm the plan.

The Chapter 13 Trustee objects to plan confirmation on grounds that the meeting of creditors has not been concluded. The continued meeting of creditors was held December 5, 2024, and was concluded as to Debtor and Joint Debtor. This resolves the objection to confirmation.

The plan complies with 11 U.S.C. §§ 1322 and 1325(a). The objection is overruled and the plan filed October 11, 2024, is confirmed.

The objection is ORDERED OVERRULED 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.

15. [24-24685](#)-B-13 ROSELYN SHANKAR
Peter G. Macaluso

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
11-22-24 [[14](#)]

Final Ruling

The Order to Show Cause will be discharged and the case will remain pending but the court will modify the terms of its order permitting the Debtor to pay the filing fee in installments.

The court granted the Debtor permission to pay the filing fee in installments. The Debtor failed to pay the \$79.00 installment when due on November 18, 2024. While the delinquent installment was paid on December 11, 2024, the fact remains that the court was required to issue an order to show cause to compel the payment. Therefore, as a sanction for the late payment, the court will modify its prior order allowing installment payments to provide that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

IT IS FURTHER ORDERED that if a future installment is not received by its due date, the case will be dismissed without further notice or hearing.

The court will issue an order.

16. [24-21686](#)-B-13 JAYESH PATEL MOTION TO DISMISS CASE
[LGT](#)-3 David C. Johnston 11-14-24 [[48](#)]

Final Ruling

The case having been converted to one under chapter 7 on December 13, 2024, the 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.

17. [24-23588](#)-B-13 MAY LOR
[KLG](#)-1 Arete Kostopoulos

AMENDED MOTION TO CONFIRM PLAN
11-11-24 [[28](#)]

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. 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.

18. [24-24596](#)-B-13 BETHANY JOHNSON ORDER TO SHOW CAUSE - FAILURE
[Thru #19](#) Peter G. Macaluso TO PAY FEES
11-19-24 [[18](#)]

Final Ruling

The court's decision is to discharge the Order to Show Cause and the case will remain pending.

The Order to Show Cause was issued due to Debtor's failure to pay \$79.00 due November 14, 2024. The court's docket reflects that the default was cured on December 11, 2024. The payment constituted the final installment.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

The court will issue an order.

19. [24-24596](#)-B-13 BETHANY JOHNSON OBJECTION TO CONFIRMATION OF
[LGT-1](#) Peter G. Macaluso PLAN BY LILIAN G. TSANG
11-27-24 [[22](#)]

Final Ruling

The objection was properly filed at least 14 days prior to the hearing on the motion to confirm a plan. See Local Bankr. R. 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 Bankr. R. 9014-1(f)(1)(C). A written reply has been filed to the objection.

All objections have been resolved and the court has determined that oral argument is not necessary. See Local Bankr. R. 1001-1(f), 9014-1(h). This matter will be decided on the papers. No appearance at the hearing is necessary.

The court's decision is to overrule the objection and confirm the plan.

The Chapter 13 Trustee objects to plan confirmation on grounds that the plan provides for Rushmore Loan Management as being paid \$1,015.00 month as an adequate protection payment for its secured claim but Claim 5-1 filed by this creditor lists a post-petition mortgage payment of \$1,099.93. This is an impermissible modification of the first mortgage on Debtor's principal residence, which is not permitted under 11 U.S.C. § 1322 (b) (2).

Debtor filed a response stating that plan payment may be increased by \$100.00 per month and that this change can be reflected in the order confirming so that distribution to creditors is not further delayed.

With the aforementioned adjustment, the plan complies with 11 U.S.C. §§ 1322 and 1325(a). The objection is overruled and the plan filed October 28, 2024, is confirmed. The objection is ORDERED OVERRULED 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.