

**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: February 6, 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

**February 6, 2024 at 1:00 p.m.**

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1. [20-24704](#)-B-13 JAMES/JUNE GRAY MOTION TO MODIFY PLAN  
[DAB](#)-3 David A. Boone 12-28-23 [[94](#)]

**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, Debtors' plan is not feasible under 11 U.S.C. § 1325(a)(6). Section 2.01 of Debtors' plan proposes monthly payments of \$3,421.00 x 38 months; then \$1,100.00 thereafter. Debtors have failed to provide admissible evidence that the plan is mathematically feasible. The Chapter 13 Trustee's calculations indicate that Debtors' average plan payment will need to be at least \$5,169.00 beginning January 2024 in order for the plan to be feasible as paying unsecured creditors 35.00%.

Second, Item 6 of the Debtors' Declaration states unsecured creditors have already received 35% dividend pursuant to the confirmed First Amended Chapter 13 Plan. The Trustee's records show that the general unsecured creditors have received approximately 13.73% to date. Pursuant to the Notice of Filed Claims filed on June 29, 2021, there were a total of \$478,484.50 in filed and allowed unsecured claims. Debtors' plan is not 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.

**February 6, 2024 at 1:00 p.m.**

2. [22-22612](#)-B-13 LAWRENCE/JENNY BOLDON MOTION TO MODIFY PLAN  
[BSH](#)-11 Brian S. Haddix 12-27-23 [[150](#)]  
**Thru #3**

**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, all sums required by the plan have not been paid pursuant to 11 U.S.C. § 1325(a)(2). Debtors are delinquent \$11,500.00 under the proposed plan. The last payment made by Debtors was on November 7, 2023, in the amount of \$5,800.00.

Second, Debtors' plan is not feasible under 11 U.S.C. § 1325(a)(6). Section 7-Nonstandard Provisions for Section 2.01 of Debtors' plan provides for plan payments of \$5,200.00 per month for 1 month (November 2022), \$5,675.00 per month for 3 months (December 2022 to February 2023), and \$5,800.00 per month for 56 months (March 2023 to October 2027). Debtors have failed to provide admissible evidence that the plan is mathematically feasible. The Chapter 13 Trustee's calculations indicate that Debtors' average plan payment will need to be at least \$6,317.00 beginning January 2024 in order for the plan to be feasible as paying unsecured creditors 1.00%.

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.

3. [22-22612](#)-B-13 LAWRENCE/JENNY BOLDON MOTION TO VALUE COLLATERAL OF  
[BSH](#)-12 Brian S. Haddix SYNCHRONY BANK  
12-27-23 [[156](#)]

**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 value the secured claim of Synchrony Bank at \$16,500.00.

Debtors move to value the secured claim of Synchrony Bank ("Creditor"). Joint Debtor is the owner of two 2017 Kawasaki and one 2017 Karvan Trailer (hereinafter "Vehicles"). The Debtors seek to value the Vehicles at a replacement value of \$16,500.00 as of the petition filing date. As the owner, Debtor's opinion of value is evidence of the

asset's value. See Fed. R. Evid. 701; see also *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

#### **Proof of Claim Filed**

The court has reviewed the Claims Registry for this bankruptcy case. Claim No. 24 filed by Synchrony Bank c/o AIS Portfolio Services LLC is the claim which may be the subject of the present motion.

#### **Discussion**

The lien on the Vehicles' title secures a purchase-money loan incurred on September 16, 2017, which is more than 910 days prior to filing of the petition, to secure a debt owed to Creditor with a balance of approximately \$19,198.07 based on Claim No. 24. Therefore, the Creditor's claim secured by a lien on the assets' title is under-collateralized. The Creditor's secured claim is determined to be in the amount of \$16,500.00. See 11 U.S.C. § 506(a). The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a) is granted.

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

The court will issue an order.

4. [23-22720](#)-B-13 KAREEM SYKES  
[PGM](#)-2 Peter G. Macaluso

MOTION TO CONFIRM PLAN  
12-21-23 [[55](#)]

### **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.

5. [23-22920](#)-B-13 MARK JOHNSON MOTION TO CONFIRM PLAN  
[EJS](#)-1 Eric John Schwab 12-14-23 [[50](#)]  
**Thru #6**

**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 and a reply were 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 to confirm the first amended plan to **March 12, 2024, at 1:00 p.m.**, to allow for proper service of the motion to value at Item #6, EJS-2.

Feasibility relies on a motion to value collateral of Select Portfolio Servicing Inc. However, that motion is continued at Item #6, EJS-2.

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.

6. [23-22920](#)-B-13 MARK JOHNSON MOTION TO VALUE COLLATERAL OF  
[EJS](#)-2 Eric John Schwab SELECT PORTFOLIO SERVICING INC.  
1-8-24 [[59](#)]

**Final Ruling**

The motion has been set for hearing on the notice required by Local Bankruptcy Rule 9014-1(f)(1). However, there appears to be insufficient service of process on Select Portfolio Servicing Inc. The address used by the Debtor does not appear on the California Secretary of State website or Better Business Bureau website. Rather, it appears that the address used is a General Correspondence mailing address from [www.spservicing.com](http://www.spservicing.com).

Rather than deny the motion for defective service, the court will exercise its discretion to continue the hearing to **March 12, 2024, at 1:00 p.m.**, to allow the Debtor to properly serve this creditor. Service shall be completed by **Friday, February 9, 2024**, and shall be made pursuant to Local Bankr. R. 9014-1(f)(1).

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

The court will issue an order.

7. [22-22237](#)-B-13 CAROLYN VALDEZ  
[MKM](#)-2 Michael K. Moore

MOTION TO MODIFY PLAN  
12-20-23 [[36](#)]

### **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.

8. [23-24239](#)-B-13 PAUL CRAMER OBJECTION TO CONFIRMATION OF  
[LGT](#)-1 Peter G. Macaluso PLAN BY LILIAN G. TSANG  
[Thru #9](#) 1-17-24 [[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 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). 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.

First, Debtor's plan is a 60-month plan and the Chapter 13 Trustee estimates that a monthly dividend of \$100.00, and not \$160.00, is necessary to pay the claim in full within the 60-month term. The Debtor filed a reply stating that the dividend of \$100.00 be provided for in the order confirming.

Second, feasibility depends on the granting of a motion to value collateral of OneMain Financial Group, LLC, which was granted at Item #9, PGM-1. Therefore, this issue is resolved.

The plan complies with 11 U.S.C. §§ 1322 and 1325(a). The objection is overruled and the plan filed November 28, 2023, is confirmed.

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

IT IS FURTHER ORDERED that the plan is CONFIRMED and 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.

9. [23-24239](#)-B-13 PAUL CRAMER MOTION TO VALUE COLLATERAL OF  
[PGM](#)-1 Peter G. Macaluso ONEMAIN FINANCIAL GROUP, LLC  
1-8-24 [[17](#)]

**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 value the secured claim of OneMain Financial Group, LLC at \$5,000.00.

Debtor moves to value the secured claim of OneMain Financial Group, LLC ("Creditor"). Debtor is the owner of a 2001 Ford F250 Diesel ("Vehicle"). The Debtor seeks to value the Vehicle at a replacement value of \$5,000.00 as of the petition filing date. As the owner, Debtor's opinion of value is evidence of the asset's value. See Fed. R. Evid.



701; see also *Enewally v. Wash. Mut. Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir. 2004).

### **Proof of Claim Filed**

The court has reviewed the Claims Registry for this bankruptcy case. Claim No. 5 filed by OneMain Financial is the claim which may be the subject of the present motion.

### **Discussion**

The lien on the Vehicle's title secures a purchase-money loan incurred on February 18, 2021, which is more than 910 days prior to filing of the petition, to secure a debt owed to Creditor with a balance of approximately \$15,396.57. Therefore, the Creditor's claim secured by a lien on the asset's title is under-collateralized. The Creditor's secured claim is determined to be in the amount of \$5,000.00. See 11 U.S.C. § 506(a). The valuation motion pursuant to Fed. R. Civ. P. 3012 and 11 U.S.C. § 506(a) is granted.

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

The court will issue an order.

10. [23-24142](#)-B-13 FRANK CANO  
[CAS](#)-1 Mary D. Anderson  
**Thru #11**

OBJECTION TO CONFIRMATION OF  
PLAN BY ALLY BANK  
12-27-23 [[20](#)]

**Final Ruling**

The *initial* Chapter 13 Plan filed December 1, 2023, 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 overrule the objection as moot and deny confirmation of the plan for reasons stated at LGT-1.

Feasibility relies on a motion to value collateral of Ally Bank. To date, the Debtor has failed to file a motion to value collateral. Without a motion to value being filed by the Debtor and granted by the court, the Debtor's plan does not have sufficient funds to pay the creditor's claim in full. Therefore, the plan is not confirmable.

The plan filed December 1, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a) will not be confirmed.

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

The court will issue an order.

11. [23-24142](#)-B-13 FRANK CANO  
[LGT](#)-1 Mary D. Anderson

OBJECTION TO CONFIRMATION OF  
PLAN BY LILIAN G. TSANG  
1-8-24 [[24](#)]

**Final Ruling**

The *initial* Chapter 13 Plan filed December 1, 2023, 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 February 13, 2024, at 1:00 p.m.**, conditionally sustain the objection, and deny confirmation of the plan.

Feasibility relies on a motion to value collateral of Ally Bank. To date, the Debtor has failed to file a motion to value collateral. Without a motion to value being filed by the Debtor and granted by the court, the Debtor's plan does not have sufficient funds to pay the creditor's claim in full. Therefore, the plan is not confirmable.

The plan filed December 1, 2023, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan will not be 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), party in interest shall have until 5:00 p.m. on February 9, 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 February 13, 2024, at

1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on February 13, 2024, at 1:00 p.m.

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

The court will issue an order.

### **Final Ruling**

The *initial* Chapter 13 Plan filed November 27, 2023, 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 February 13, 2024, at 1:00 p.m.**, conditionally sustain the objection, and deny confirmation of the plan.

First, Sections 3.07 of the plan references Section 7.01 Nonstandard Provisions. However, Debtor has failed to indicate that the plan includes nonstandard provisions at Section 1.02, and Debtor has improperly modified the form Chapter 13 Plan by including, what is labeled as "Section 7.01", on the signature page of the plan rather placing it on a separate page. Accordingly, Debtor's plan is not feasible. 11 U.S.C. § 1325(a)(6).

Second, Debtor has failed to provide the Chapter 13 Trustee with a copy of Debtor's 2022 federal and state income tax returns. Without this information, it cannot be determined whether Debtor's 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), (b)(1).

Third, Debtor's Schedule I includes income from Debtor's non-filing spouse in the amount of \$3,289.00 a month. Debtor has failed to provide copies of pay advices from Debtor's spouse. Without this information, it cannot be determined if the plan is feasible. 11 U.S.C. § 1325(a)(6).

Fourth, Debtor's schedules list non-exempt assets totaling \$5,500.00 and unsecured priority claims totaling \$0. Accordingly, there are non-exempt assets available for distribution to Debtor's nonpriority general unsecured claims totaling \$9,158.00. In order to meet the liquidation test of 11 U.S.C. § 1325(a)(4), Debtor's plan must pay 60% to Debtor's general unsecured creditors. Debtor's plan pays 0% and, therefore, it fails the liquidation test.

The plan filed November 27, 2023, 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), party in interest shall have until 5:00 p.m. on February 9, 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 February 13, 2024, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on February 13, 2024, at 1:00 p.m.

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

The court will issue an order.

13. [23-23449](#)-B-13 MAXIMILIANO JARA SANCHEZ MOTION TO CONFIRM PLAN  
[FAT](#)-1 AND MARIA ZARAGOZA DE 12-18-23 [[23](#)]  
Flor De Maria A. Tataje

**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.

14. [23-21951](#)-B-13 RICARDO/CHRISTINE URREA  
[LGT-1](#) Pauldeep Bains  
**Thru #15** OBJECTION TO CLAIM OF US  
DEPARTMENT OF EDUCATION/MOHELA,  
CLAIM NUMBER 24  
1-4-24 [[28](#)]

### **Final Ruling**

The objection has been set for hearing on at least 30 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(b)(2). When fewer than 44 days' notice of a hearing is given, 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 sustain the objection to Claim No. 24 of US Department of Education/MOHELA and **continue the matter to February 13, 2024, at 1:00 p.m.**

The Chapter 13 Trustee requests that the court disallow the claim of US Department of Education/MOHELA ("Creditor"), Claim No. 24. The claim is asserted to be in the amount of \$5,682.00. The Trustee asserts that the claim has not been timely filed. See Fed. R. Bankr. P. 3002(c). The deadline for filing proofs of claim in this case for a government unit was December 11, 2023. The Creditor's claim was filed December 13, 2024.

Section 501(a) of the Bankruptcy Code provides that any creditor may file a proof of claim. "A proof of claim is a written statement setting forth a creditor's claim." Rule 3001(a). If the claim meets the requirements of § 501, the bankruptcy court must then determine whether the claim should be allowed. Section 502(a) provides that a claim is deemed allowed unless a party in interest objects. If such an objection is made, the court shall allow such claim "except to the extent that the proof of claim is not timely filed." See 11 U.S.C. § 502(b)(9).

Federal Rule of Bankruptcy Procedure 3002(c) governs the time for filing proofs of claim in a Chapter 13 case. Rule 9006(b)(3) prohibits the enlargement of time to file a proof of claim under Rule 3002(c) except as provided in one of the circumstances included in Rule 3002(c). *Zidell, Inc. v. Forsch (In re Coastal Alaska Lines, Inc.)*, 920 F.2d 1428, 1432-1433 (9th Cir. 1990) ("We . . . hold that the bankruptcy court cannot enlarge the time for filing a proof of claim unless one of the six situations listed in Rule 3002(c) exists."). No showing has been made that any of those circumstances apply.

The court also notes that the excusable neglect standard does not apply to permit the court to extend the time to file a proof of claim under Rule 3002(c). As the Ninth Circuit stated in *Coastal Alaska*:

Rule 9006(b) plainly allows an extension of the 90-day time limit established by Rule 3002(c) only under the conditions permitted by Rule 3002(c). Rule 3002(c) identifies six circumstances where a late filing is allowed, and excusable neglect is not among them. Thus, the 90-day deadline for filing claims under Rule 3002(c) cannot be extended for excusable neglect.

*Id.* at 1432. In fact, the time for filing claims under Rule 3002(c) cannot be extended for any equitable reason at all. As stated in *Spokane Law Enforcement Credit Union v. Barker (In re Barker)*, 839 F.3d 1189, 1197 (9th Cir. 2016): "[T]he Ninth Circuit has repeatedly held that the deadline to file a proof of claim in a Chapter 13 proceeding is 'rigid' and the bankruptcy court lacks equitable power to extend this deadline after the fact."

Based on the evidence before the court, the Creditor's claim is disallowed in its entirety as untimely. The objection to the proof of claim will be sustained.

Because the objection has been filed, set, and served under Local Bankruptcy Rule 3007-1(b)(2), any party in interest shall have until 5:00 p.m. on Friday, February 9, 2024, to file and serve an opposition or other response to the objection. See Local Bankr. R. 3007-1(b)(2). Any opposition or response shall be served on the Chapter 13 Trustee and creditor by facsimile or email.

If an opposition or response is timely filed and served, the court will hear the objection on February 13, 2024, at 1:00 p.m.

- February 6, 2024 at 1:00 p.m.**  
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included in Rule 3002(c). *Zidell, Inc. v. Forsch (In re Coastal Alaska Lines, Inc.)*, 920 F.2d 1428, 1432-1433 (9th Cir. 1990) ("We . . . hold that the bankruptcy court cannot enlarge the time for filing a proof of claim unless one of the six situations listed in Rule 3002(c) exists."). No showing has been made that any of those circumstances apply.

The court also notes that the excusable neglect standard does not apply to permit the court to extend the time to file a proof of claim under Rule 3002(c). As the Ninth Circuit stated in *Coastal Alaska*:

Rule 9006(b) plainly allows an extension of the 90-day time limit established by Rule 3002(c) only under the conditions permitted by Rule 3002(c). Rule 3002(c) identifies six circumstances where a late filing is allowed, and excusable neglect is not among them. Thus, the 90-day deadline for filing claims under Rule 3002(c) cannot be extended for excusable neglect.

*Id.* at 1432. In fact, the time for filing claims under Rule 3002(c) cannot be extended for any equitable reason at all. As stated in *Spokane Law Enforcement Credit Union v. Barker (In re Barker)*, 839 F.3d 1189, 1197 (9th Cir. 2016): "[T]he Ninth Circuit has repeatedly held that the deadline to file a proof of claim in a Chapter 13 proceeding is 'rigid' and the bankruptcy court lacks equitable power to extend this deadline after the fact."

In sum, Creditor filed an untimely proof of claim and has not demonstrated any reason that would permit the court to allow its late-filed proof of claim.

Based on the evidence before the court, the Creditor's claim is disallowed in its entirety as untimely. The objection to the proof of claim will be sustained.

#### **Conditional Nature of this Ruling**

Because the objection has been filed, set, and served under Local Bankruptcy Rule 3007-1(b)(2), any party in interest shall have until 5:00 p.m. on Friday, February 9, 2024, to file and serve an opposition or other response to the objection. See Local Bankr. R. 3007-1(b)(2). Any opposition or response shall be served on the Chapter 13 Trustee and creditor by facsimile or email.

If no opposition or 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 February 13, 2024, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the objection on February 13, 2024, at 1:00 p.m.



16. [23-20464](#)-B-13 PATRICIA BROWN MOTION TO MODIFY PLAN  
[MJD](#)-4 Matthew J. DeCaminada 1-1-24 [[67](#)]

**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.

17. [23-22700](#)-B-13 MANUEL GALVAN  
[LGT](#)-1 James L. Keenan

CONTINUED MOTION TO DISMISS  
CASE  
1-9-24 [[32](#)]

**Final Ruling**

This matter was continued from January 30, 2024, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, February 2, 2024. Debtor filed a timely response and a first amended plan with a scheduled confirmation hearing date of March 19, 2024, at 1:00 p.m. This resolves the basis for dismissing the case at this time.

Therefore, the court's conditional ruling at dkt. 38 and the continued hearing on February 6, 2024, 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. [23-20748](#)-B-13 RONALD/YUVETTA PERRIN  
[LGT](#)-1 G. Michael Williams

CONTINUED MOTION TO DISMISS  
CASE  
12-28-23 [[168](#)]

### **Final Ruling**

This matter was continued from January 30, 2024, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, February 2, 2024. Debtors filed a timely response stating that their Chapter 13 bankruptcy was filed primarily in an effort to save the church of which they are pastors and to refinance existing loans.

Debtors state that they are now working with lender The Non-Profit Alliance, which has indicated that it will fund a loan to refinance the Debtors' church. The Debtors state that they do not and cannot deny the reasons set forth in the court's ruling at dkt. 175 to dismiss this case, and that they understand that these are reasonable and standard factors and causes for the case to be dismissed.

However, the Debtors submit that they have worked tirelessly to save their church. This being the case, the Debtors request that the court delay entry of the dismissal for a few weeks so that the Debtors can in fact complete the financing.

Based on the aforementioned, the court will grant the motion to dismiss this case for reasons stated at dkt. 175 and delay entry of the dismissal for four weeks, which would be after March 12, 2024.

**The Chapter 13 Trustee shall submit an order granting the motion to dismiss and dismissing this Chapter 13 case on or after March 13, 2024.**

The continued hearing on February 6, 2024, at 1:00 p.m. is vacated.

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

IT IS FURTHER ORDERED that the order dismissing this case shall be entered after March 12, 2024.

The court will issue an order.