

**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: June 10, 2025

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

June 10, 2025 at 1:00 p.m.

1. [25-20600](#)-B-13 RANDY/CONCEPTION BARRETTO MOTION TO CONFIRM PLAN
[BSH](#)-3 Brian S. Haddix 4-28-25 [[35](#)]

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. 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.

June 10, 2025 at 1:00 p.m.

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 hardship discharge.

Debtor Lynda Green ("Debtor") requests an order of discharge of her Chapter 13 case pursuant to 11 U.S.C. § 1328(b). The case was filed on December 11, 2020. The confirmed plan provided for a mortgage arrears claim of about \$24,603.00 owed to PHH Mortgage Services, and a secured claim of \$10,428.00 owed to Flagship Credit Acceptance, LLC, for Debtor's 2015 Nissan Altima. Debtor had made monthly plan payments on a timely basis, all arrears on the mortgage were caught up, and the secured claim on the vehicle was also paid off.

Recently, Debtor's partner suffered a stroke and his ability to generate income through his work as a truck driver was impacted, which has also impacted Debtor's ability to make her plan payments. Debtor's partner has started the process of applying for disability. Debtor has also initiated discussions with PHH on working on a solution for ongoing and future mortgage payments. The process is in progress, and if successful, would enable Debtor to address her ongoing mortgage payments.

Because of the loss of financial contribution from her partner, Debtor has struggled to make the most recent ongoing Chapter 13 Plan payment. At this point, Debtor believes that the best path forward to is seek a discharge of her Chapter 13 case immediately, and address her ongoing mortgage payments with direct discussions with her mortgage company.

Discussion

After confirmation of a plan, circumstances may arise that prevent a debtor from completing a plan of reorganization. In such situations, the debtor may ask the court to grant a "hardship discharge." 11 U.S.C. § 1328(b). Generally, such a discharge is available only if: (b)(1) the debtor's failure to complete plan payments is due to circumstances beyond the debtor's control and through no fault of the debtor; (b)(2) creditors have received at least as much as they would have received in a chapter 7 liquidation case; and (b)(3) modification of the plan is not possible under 11 U.S.C. § 1329. 11 U.S.C. § 1328(b)(1)-(3).

Here, the Debtor has satisfied 11 U.S.C. § 1328(b)(1)-(3). In the present case, Debtor is unable to complete the plan due to circumstances beyond her control, specifically the job loss of her partner that has impacted Debtor's ability to make plan payments. Unsecured creditors will receive at least as much as they would have received if Debtor had filed for chapter 7 bankruptcy, which in this case Debtor's plan proposed no less than 0% dividend. Lastly, plan modification is not practical since she cannot afford a modified plan even if one were proposed.

The court grants the motion and the clerk of the court shall issue a discharge pursuant to 11 U.S.C. § 1328(b).

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

The court will issue an order.

3. [25-90108](#)-B-13 TODD KOVACS
[BSH](#)-4 Brian S. Haddix

MOTION TO CONFIRM PLAN
4-28-25 [[34](#)]

Final Ruling

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to not confirm the first amended plan.

First, Debtor will not be able to make all payments under the plan and comply with the plan. 11 U.S.C. § 1325(a)(6). The plan provides for New Rez LLC dba Shellpoint Mortgage as a Class 1 claim with pre-petition arrears of \$141,440.00, to be paid pursuant to the non-standard provisions a dividend of \$5,911.58. However, Debtor's plan payment in months 1 through 36 is only \$2,755.00. Debtor's plan is not feasible as proposed.

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

Third, Debtor's plan provides for payments of \$2,755.00 for 36 months and \$10,750.00 per month for 24 months. The nonstandard provisions of the plan attempts to provide for feasibility of the step payment in month 37 by proposing three possible scenarios: a loan modification, the sale of the residence, or Debtor's spouse obtaining employment. Debtor's plan is illusory, speculative, and does not appear feasible. 11 U.S.C. § 1325(a)(6).

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.

4. [25-21510](#)-B-13 FINA MARTINEZ
[LGT](#)-1 Pauldeep Bains

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
5-16-25 [[18](#)]

Final Ruling

The *initial* Chapter 13 Plan filed March 31, 2025, 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 June 17, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtor's plan payments are insufficient to provide for Trustee's administrative fee. Plan payments would need to be \$848.01 for month 1, and \$848.29 for months 2 through 60. In addition, Debtor's attorney's monthly dividend will need to be \$250.00 for months 1 through 6, and then \$37.04 for months 7 through 60.

Second, the Chapter 13 Trustee is in receipt of the Debtor's 2024 federal income tax return, which reflects income from unemployment compensation in the amount of \$1,017.00. However, the Statement of Financial Affairs fails to reflect this income and thus needs to be amended.

The plan 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 June 13, 2025, 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 June 17, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on June 17, 2025, at 1:00 p.m.

The objection is ORDERED CONDITIONALLY SUSTAINED and CONTINUED to June 17, 2025 at 1:00 p.m. for reasons stated in the minutes.

The court will issue an order.

5. [24-90527](#)-B-13 FREDa SLEDGEgLOVER
[BSH](#)-1 Brian S. Haddix

MOTION TO MODIFY PLAN
5-2-25 [[24](#)]

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.

Final Ruling

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to not confirm the first amended plan.

First, Debtor is not eligible to be in chapter 13 because his unsecured debts exceed the 11 U.S.C. § 109(e) unsecured debt limits. As of the December 3, 2024, petition date, 11 U.S.C. § 109(e) only allows debtors to be eligible for chapter 13 if their unsecured debts do not exceed \$465,275. According to debtor's schedule E/F, he has \$798,000 of unsecured debt. Debtor's Schedules E/F state that debtor is a guarantor, on behalf of a corporation, of the debts owed to creditors, and that appears to be the basis of Debtor's position that the claims are contingent or should not be factored into the amount of unsecured debt. This issue has been considered by other courts which have held that a debt guaranteed by the debtor is in fact debts counted towards the 109(e) unsecured debt limitation. See *In re Brown*, 250 B.R. 382 (Bankr. D. Idaho 2000). In *In re Brown*, the bankruptcy court held that debtors' obligation to the bank, on their guarantee of a loan to their wholly-owned, subchapter S corporation, was "unsecured debt" that had to be added to debtors' other unsecured debt in assessing whether debtors were eligible for Chapter 13 relief. In addition, Debtor's proposed plan at section 3.14 provides for \$798,000 of unsecured claims, therefore acknowledging unsecured debts that exceed the \$465,275 limit.

Second, Debtor will not be able to make all payments under the plan and comply with the plan. 11 U.S.C. § 1325(a)(6). Debtor's Schedule I, Line 8(a), indicates net income from rental property and from operating a business, profession, or farm of \$8,550.00. The attachment to Schedule I, which provides for Debtor's business income and expenses, needs to be filed. Without this document, it cannot be determined whether Debtor's plan is feasible and pays all projected disposable income for the applicable commitment period to Debtor's general unsecured creditors. 11 U.S.C. §§ 1325(a)(6), (b)(1). Additionally, Debtor's plan proposes plan payments of \$500.00 for 3 months, \$1,000.00 for 3 months, and \$1400.00 for 54 months. However, Debtor's Schedule J indicates a negative monthly net income of -\$3,168.00.

Third, Debtor has failed to provide the Chapter 13 Trustee with a copy of Debtor's 2024 Federal and State income tax returns and 2024 corporate tax returns for Priority Medical Supply, Inc. 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 Debtor's general unsecured creditors. 11 U.S.C. §§ 1325(a)(6), (b)(1).

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.

7. [25-90256](#)-B-13 GREGORY/ELIZABETH OBJECTION TO CONFIRMATION OF
 [LGT](#)-1 BROTHERTON PLAN BY LILIAN G. TSANG
 Arasto Farsad 5-16-25 [[21](#)]

CONTINUED TO 6/17/25 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS
SET FOR 6/12/25.

Final Ruling

No appearance at the June 10, 2025, hearing is required. The court will issue an
order.

8. [25-90167](#)-B-13 HAROLD EMMONS
[BSH](#)-2 Brian S. Haddix

MOTION TO CONFIRM PLAN
4-28-25 [[34](#)]

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.

9. [25-90269](#)-B-13 ARTHUR/MARILU BOODE OBJECTION TO CONFIRMATION OF
[LGT](#)-1 Peter G. Macaluso PLAN BY LILIAN G. TSANG
5-16-25 [[16](#)]

CONTINUED TO 6/17/25 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS SET FOR 6/12/25.

Final Ruling

No appearance at the June 10, 2025, hearing is required. The court will issue an order.

10. [24-22973](#)-B-13 MARIA SANCHEZ
[LRR](#)-3 Len ReidReynoso

OBJECTION TO CLAIM OF WILLIAM
A. SCHUCKMAN, CO-TRUSTEE OF THE
SCHUCKMAN FAMILY 2008 REVOCABLE
TRUST, CLAIM NUMBER 7-2
5-8-25 [[83](#)]

Final Ruling

Background

Debtor Maria Sanchez ("Debtor") objects to the claim of William A. Schuckman, Co-Trustee of the Schuckman Family 2008 Revocable Trust ("Creditor"), Claim No. 7-2 filed on February 21, 2025, on grounds that it is a third attempt from this creditor to receive more payments from Debtor in this bankruptcy case. The amended proof of claim increases the amount of attorney's fees included in the initial proof of claim by approximately \$10,000 which Creditor attributes to postpetition attorney's fees up to and including the confirmation date of Debtor's third amended plan. See dkts. 86 at 5:6-8, 88. It also increases the amount of attorney's fees provided for in Debtor's third amended plan confirmed on December 5, 2024, by some \$10,000. See dkts. 59, 73, 75.

Creditor was Debtor's former divorce attorney who never completed the divorce and Debtor remains married to her estranged husband with whom she has no contact and is unaware of his whereabouts. Creditor had objected to the third (not first) amended plan, which was overruled by the court and the plan was confirmed. Dkts. 73, 75. The third amended plan provides that Creditor will: (i) retain his lien on Debtor's property at 3851 Townshend Circle, Stockton, California, until the secured claim is paid; (ii) receive the allowed amount of his secured claim as stated in his proof of claim, i.e., \$16,680.90; (iii) receive interest at 10%; and (iv) receive the allowed amount of his secured claim in equal monthly payments of \$354.00.

Creditor filed a response to the objection stating that Creditor is entitled to amend his proof of claim to provide for the payment of postpetition attorney's fees up to the date of the confirmation of Debtor's plan on December 5, 2024. Specifically, Creditor seeks to include in his proof of claim the attorney's fees he incurred when retaining counsel, Law Office of Hastings & Ron, to represent him in Debtor's bankruptcy case.

Within Schedule A/B, Debtor has valued her residential property securing Creditor's interest at \$551,700 and has indicated that there is only one other debt that is secured by the property in the amount of \$170,269.00. As such, there is a balance of security in the property in the amount of \$381,431, which Creditor asserts is far greater than the amount of Creditor's original proof of claim and Creditor's amended proof of claim in the amount of \$28,222.00. Creditor states that it is an oversecured creditor.

Furthermore, Creditor contends that Debtor's objection to claim was untimely filed under Local Bankr. R. 3007-1, Debtor mischaracterizes the timeframe and scope of the amended claim, and Debtor's own conduct of failing to pay the note pre-petition for nearly two decades necessitated the incurred fees and interest. Creditor does not mention that he failed to complete Debtor's divorce.

Analysis

Filed as an actual, i.e., a local rule compliant, claim objection on May 8, 2025, Debtor's objection to Creditor's amended proof of claim is untimely insofar as it was filed two weeks after the April 25, 2025, claim objection deadline set by the Chapter 13 Trustee's February 24, 2025, Notice of Claims Filed. See dkt. 80. Debtor's claim objection is therefore procedurally defective. Normally, this would result in the court overruling the objection which would result in an allowance of the claim objected to. Doing so here, however, would result in the allowance of Creditor's equally defective and procedurally improper request for postpetition attorney's fees.

Creditor's response suffers from the misguided assumption that Creditor is

automatically entitled to all postpetition attorney's fees purportedly incurred without any judicial review and without a determination of the reasonableness of the purported attorney's fees requested. Postpetition attorney's fees are not awarded by filing an amended proof of claim with an attached memorandum of points and authorities and some exhibits. Postpetition attorney's fees, particularly those claimed under 11 U.S.C. § 506(b) as they are here, are awarded by filing, setting, and serving a noticed motion supported by admissible evidence, which Creditor has failed to do. See *In re Griego*, 2023 WL 6166768, *12 (Bankr. W.D. Texas Sept. 21, 2023) (rejecting the argument that creditor could rely on loan documents for unpaid postpetition fees and stating that "Rule 2016 and § 506(b) require the party seeking reimbursement to file the requisite application.").

The court will not award Creditor postpetition attorney's fees under the present circumstances. So while Debtor's objection will be sustained, it will be SUSTAINED WITHOUT PREJUDICE. The "without prejudice" means Creditor will have an opportunity to file, set, and serve a proper motion for allowance of postpetition attorney's fees, which Debtor may then properly (and not in response to an amended proof of claim) oppose if she so chooses.

Creditor will have until **June 24, 2025**, to file, set, and serve a motion for postpetition attorney's fees. Creditor shall set and serve any motion under Local Bankr. R. 9014-1(f)(1). If a motion is not timely filed, set, and served the SUSTAINED WITHOUT PREJUDICE will become a SUSTAINED WITH PREJUDICE and all additional postpetition attorney's fees claimed in the amended proof of claim will be disallowed.

Creditor's attorneys must address the following issues in any subsequently-filed motion: (1) How Creditor's attorney justifies unilaterally increasing the amount of its purported postpetition attorney's fees with an amended proof of claim and without a noticed motion or a determination of reasonableness by the court; (2) Why Creditor's demand for additional postpetition attorney's fees (first made in the amended proof of claim filed on February 21, 2025) is not barred by the res judicata effect of the third amended plan (confirmed on December 4, 2024); (3) Whether Fed. R. Bankr. P. 3002.1 is applicable and, if so, whether Creditor has complied with it; and (4) Why \$400.00 is a reasonable hourly rate. The court will consider Creditor's response to these issues in the context of Fed. R. Bankr. P. 9011.

The objection is ordered SUSTAINED WITHOUT PREJUDICE as stated in the minutes.

The court will prepare an order.

11. [25-21675](#)-B-13 BRAD FORESTER
[LGT](#)-1 Peter G. Macaluso

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
5-15-25 [[14](#)]

Final Ruling

The *initial* Chapter 13 Plan filed April 8, 2025, 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 June 17, 2025, at 1:00 p.m., conditionally sustain the objection, and deny confirmation of the plan.**

First, Debtor testified that he is currently not working and is receiving disability. Debtor must amend Schedule I to reflect the current income he is actually receiving.

Second, Debtor's Statement of Financial Affairs #4 has no income listed. Debtor must amend the Statement of Financial Affairs to list any and all sources of income received within the last three years of filing.

The plan 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 June 13, 2025, 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 June 17, 2025, at 1:00 p.m. will be vacated.

If a response is timely filed and served, the court will hear the objection on June 17, 2025, at 1:00 p.m.

The objection is ORDERED CONDITIONALLY SUSTAINED and CONTINUED to June 17, 2025 at 1:00 p.m. for reasons stated in the minutes.

The court will issue an order.

12. [20-21976](#)-B-13 NICHOLAS/FELICIA HALL
[JCK](#)-1 Kathleen H. Crist

MOTION TO MODIFY PLAN
5-6-25 [[42](#)]

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. 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.

13. [25-20583](#)-B-13 RYAN/STEFFANIE NELSON CONTINUED MOTION TO CONFIRM
[FI-1](#) Fred A. Ihejirika PLAN
Thru #14 4-21-25 [[18](#)]

Final Ruling

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to not confirm the first amended plan.

First, feasibility depends on the court sustaining an objection to claim of Internal Revenue Service, Claim No. 4-1, filed by Debtors. That objection was heard at Item #14, FI-2, and was conditionally sustained and continued to June 17, 2025.

Second, the Amended Disclosure of Compensation of Attorney for Debtor form filed April 21, 2025, is incorrect. The form does not match that of the form provided on the Eastern District of California court's website.

Given that the Amended Disclosure of Compensation form is incorrect, 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.

14. [25-20583](#)-B-13 RYAN/STEFFANIE NELSON OBJECTION TO CLAIM OF INTERNAL
[FI-2](#) Fred A. Ihejirika REVENUE SERVICE, CLAIM NUMBER
4-1
5-5-25 [[37](#)]

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. 4-1 of Internal Revenue Service and continue the matter to June 17, 2025, at 1:00 p.m.**

Debtors request that the court reduce the unsecured priority claim of Internal Revenue Service ("Creditor"), Claim No. 4-1, from \$30,908 to \$16,043.37 and maintain the unsecured general claim amount at \$570.67. Debtor states that a portion of the unsecured priority claim pertains to the 2024 tax year that Creditor calculated as an estimate on February 11, 2025, when Debtors filed their petition and which was before the Debtors had filed their 2024 federal taxes. Debtors filed a joint tax return and an amended tax return for the 2024 tax year in March and April 2025, respectively,

which showed that Debtors owed a total tax debt of \$5,552. This is less than the estimated federal tax debt of \$20,416.63 as stated in Claim No. 4-1. Based on this calculation, Debtor requests that the court issue an order limiting and allowing the claim of Creditor to a total of \$16,614.04, consisting of unsecured priority claims of \$16,043.37 and unsecured general claims of \$570.67

Discussion

Section 502(a) provides that a claim supported by a proof of claim is allowed unless a party in interest objects. See 11 U.S.C. § 502(a). Once an objection has been filed, the court may determine the amount of the claim after a noticed hearing. See 11 U.S.C. § 502(b). The party objecting to a proof of claim has the burden of presenting substantial factual basis to overcome the prima facie validity of a proof of claim and the evidence must be of probative force equal to that of the creditor's proof of claim. *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991); see also *United Student Funds, Inc. v. Wylie (In re Wylie)*, 349 B.R. 204, 210 (B.A.P. 9th Cir. 2006). Moreover, "[a] mere assertion that the proof of claim is not valid or that the debt is not owed is not sufficient to overcome the presumptive validity of the proof of claim." Local Bankr. R. 3007-1(a).

The court finds that the Debtors have satisfied its burden of overcoming the presumptive validity of the claim. Based on the evidence before the court, the Creditor's claim is reduced to a total of \$16,614.04, consisting of unsecured priority claims of \$16,043.37 and unsecured general claims of \$570.67. The objection to the proof of claim is conditionally 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, June 13, 2025, 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 June 17, 2025, 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 June 15, 2025, at 1:00 p.m.

15. [24-90285](#)-B-13 JOHNATHAN MOHR
[DCJ](#)-1 David C. Johnston

MOTION TO CONFIRM PLAN
4-27-25 [[54](#)]

Final Ruling

The motion has been set for hearing on the 35-days notice required by Local Bankruptcy Rules 3015-1(d)(1), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 2002(b). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Opposition was filed.

The court has determined that oral argument will not assist in the decision-making process or resolution of the motion. See Local Bankr. R. 9014-1(h), 1001-1(f). This matter will therefore be decided on the papers.

The court's decision is to not confirm the first amended plan.

First, Section 2.01 of the amended plan lists a monthly plan payment of \$750.00 for a duration of 36 months. The plan provides for the Army & Air Force Exchange Services as a Class 2 Claim, with a monthly dividend of \$50.00. According to the Trustee's calculations, it would take 60 months, not 36 months, to pay this claim based on this dividend. The monthly dividend to the Army & Air Force Exchange Services would need to be at least \$78.00 per month to fund within the 36 months.

Second, Debtor's plan provides for Travis Credit Union and the Internal Revenue Service as Class 2(C) claims and proposes to pay the value of the collateral securing those claims. No motions to value the collateral have been filed by the Debtor or granted by the court.

Third, Debtor's plan misclassifies the claim owed to Travis Credit Union by placing it in both Class 2(C) and Class 4.

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.

16. [25-21789](#)-B-13 DAVID/IMELDA VOLKMAN
Lars Fuller

CONTINUED ORDER TO SHOW CAUSE
FOR FAILURE TO UPDATE CONTACT
INFORMATION IN PACER
5-2-25 [[13](#)]

Final Ruling

The court's decision is to **continue the order to show cause to June 17, 2025, at 1:00 p.m.**

The Order to Show Cause was issued due to a discrepancy between the mailing address and email address for Fuller Law Firm, P.C., as listed on PACER and on the petition . Debtors' counsel filed a supplemental response on June 4, 2025, stating that he was given a temporary password to link his PACER account to his e-filing account with the court. Debtors' counsel states that the issue appears resolved.

The court's docket reflects that the mailing address for the law firm is consistent between PACER and the petition, but that there is still a discrepancy with the email address.

As such, Debtors' counsel will be allowed an additional 7 days to correct this issue. The order to show cause is continued to June 17, 2025, at 1:00 p.m.

The court will issue an order.

17. [23-21890](#)-B-13 ESTHER CHAVEZ
[JDH](#)-4 James D Hornbuckle

MOTION TO VALUE COLLATERAL OF
DEUTSCHE BANK NATIONAL TRUST
CO./SHELLPOINT SERVICING
5-5-25 [[134](#)]

Final Ruling

No appearance at the June 10, 2025, hearing is required.

Debtor Esther Chavez ("Debtor") filed a motion to value collateral of Deutsche Bank National Trust Company/Shellpoint Servicing ("Creditor"). While Creditor was served with the motion, the notice violates Fed. R. Bankr. P. 7004(h), which requires service on insured depository institutions to be made "by certified mail addressed to an officer of the institution[.]" Fed. R. Bankr. P. 7004(h). The proof of service accompanying the motion indicates that the notice was not made by certified mail nor addressed solely to an officer at the Creditor's address listed on the FDIC website. Dkt. 139. This does not satisfy Rule 7004(h).

Service on Creditor in the manner above fails to comply with Bankruptcy Rule 7004(h). Bankruptcy Rule 7004(h) requires service solely to the attention of an officer of an insured depository institution. Nothing in Bankruptcy Rule 7004(h) or its legislative history suggests that Congress intended the term "officer" to include anything other than an officer of the respondent creditor. See *Hamlett v. Amsouth Bank (In re Hamlett)*, 322 F.3d 342, 345-46 (4th Cir. 2003) (examining the legislative history of Rule 7004(h), comparing it to Rule 7004(b)(3), and concluding that the term "officer" in Rule 7004(h) does not include other posts with the respondent creditor).

This court has previously dismissed matters without prejudice as non-compliant with Bankruptcy Rule 7004(h) where service was not solely to the attention of an officer of an insured depository institution. See *In re Chaney*, No. 16-24101 (Bankr. E.D. Cal. 2016) (Dkts. 24, 26). Other judges in this district have as well. See *In re Easley*, No. 16-27435 (Bankr. E.D. Cal. 2016) (McManus, J.) (Dkts. 62, 64). This court has also continued matters where service was not solely to an officer of an insured depository institution and provided the moving party with an opportunity to re-serve in compliance with Bankruptcy Rule 7004(h). See *In re Petty*, No. 12-24999 (E.D. Cal. 2012). In this case, the court will continue the matter.

Therefore, it is ordered that in lieu of a dismissal without prejudice, the hearing on the Debtor's motion to value the collateral of Deutsche Bank National Trust Company/Shellpoint Servicing, dkt. 134, is continued to July 1, 2025, at 1:00 p.m. The Debtor shall re-serve Creditor in the manner required by Bankruptcy Rule 7004(h) to the attention of an officer of the respective institution (and only to an officer of the institution) and by certified mail so that the motion may be heard consistent with Local Bankr. R. 9014-1(f)(2).

The court will enter a minute order.

18. [24-25690](#)-B-13 RAYLA NEELEY
[AP-1](#) Mark Shmorgon

U.S. BANK NATIONAL
ASSOCIATION VS.
DEBTOR DISMISSED: 05/15/25

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR RELIEF FROM CO-DEBTOR STAY
5-8-25 [[60](#)]

Final Ruling

The case having been dismissed on May 15, 2025, the motion for relief from automatic stay pursuant to 11 U.S.C. § 362(d)(1) and § 1301(a) is denied as moot.

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

The court will issue an order.

19. [25-21991](#)-B-13 NICOLE LEVIEN
[DEF](#)-1 David Foyil

MOTION TO VALUE COLLATERAL OF
FRANKLIN CREDIT MANAGEMENT
5-6-25 [[11](#)]

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 matter to September 9, 2025, at 1:00 p.m.**

Debtor moves to value the secured claim of Franklin Credit Management ("Creditor") pursuant to 11 U.S.C. § 506(a). Debtor is the owner of the subject real property commonly known as 69 Winton Road, West Point, California ("Property"). Debtor seeks to value the Property at a fair market value of \$192,503 as of the petition filing date. As the owner, Debtor's opinion of value is some 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).

Creditor filed an opposition stating that it believes the Property is worth more than asserted by Debtor. Creditor met and conferred with Debtor's counsel to schedule an appraisal of the Property. Creditor requests 90 days to schedule and complete an appraisal and to correspond with Debtor's counsel further concerning potential resolution.

Given the aforementioned, the motion to value is continued to September 9, 2025, at 1:00 p.m.

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

The court will issue an order.

20. [25-21594](#)-B-13 ZACHARY BUTCHER
[LGT](#)-1 Gregory J. Smith

OBJECTION TO CONFIRMATION OF
PLAN BY LILIAN G. TSANG
5-15-25 [[19](#)]

Final Ruling

The objection to confirmation 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.

Debtor filed a first amended plan on May 15, 2025. The confirmation hearing for the amended plan is scheduled for July 1, 2025. The earlier plan filed April 4, 2025, is not confirmed.

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

The court will issue an order.

21. [25-21306](#)-B-13 CYNTHIA COVINGTON
[LGT](#)-1 James L. Keenan

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY LILIAN
G. TSANG
5-2-25 [[18](#)]

Final Ruling

This matter was continued from June 3, 2025, to allow any party in interest to file a response by 5:00 p.m. Friday, June 6, 2025. Nothing was filed. Therefore, the court's conditional ruling at dkt. 24, sustaining the objection, shall become the court's final decision. The continued hearing on June 10, 2025, at 1:00 p.m. is vacated.

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

The court will issue an order.

22. [24-24569](#)-B-13 GARY DIETRICH
[EJS](#)-1 Eric John Schwab

CONTINUED MOTION TO CONFIRM
PLAN
3-20-25 [[34](#)]

Final Ruling

This matter was continued from June 3, 2025, to provide debtor Gary Dietrich ("Debtor") additional time to become current with plan payments and for the Chapter 13 Trustee ("Trustee") to file a supplemental declaration as to whether Debtor is current and issues are resolved.

Trustee filed a supplemental opposition on June 5, 2025, and Debtor filed a status statement on June 5, 2025. Both acknowledge that the Debtor is not current under the plan and that the plan is not confirmable.

Therefore, the motion to confirm plan is denied.

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

The court will issue an order.

23. [25-21371](#)-B-13 DYNESE HORACE AND CONTINUED OBJECTION TO
[LGT](#)-1 LAWRENCE WILLIAMS CONFIRMATION OF PLAN BY LILIAN
Harry D. Roth G. TSANG
5-1-25 [[17](#)]

Final Ruling

This matter was continued from June 3, 2025, to allow any party in interest to file a response by 5:00 p.m. Friday, June 6, 2025. Nothing was filed. Therefore, the court's conditional ruling at dkt. 29, sustaining the objection, shall become the court's final decision. The continued hearing on June 10, 2025, at 1:00 p.m. is vacated.

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

The court will issue an order.