

**UNITED STATES BANKRUPTCY COURT  
Eastern District of California**

Honorable Christopher D. Jaime  
1200 I Street, Suite 200  
Modesto, California

**PRE-HEARING DISPOSITIONS COVER SHEET**

**DAY: TUESDAY**

**DATE: June 15, 2021**

**CALENDAR: 1:00 P.M. CHAPTER 13**

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

**No Ruling:** All parties will need to appear at the hearing unless otherwise ordered.

**Tentative Ruling:** If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

**Final Ruling:** Unless otherwise ordered, there will be no hearing on these matters and no appearance is necessary. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

**Orders:** Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within seven (7) days of the final hearing on the matter.

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Christopher D. Jaime  
Bankruptcy Judge  
Modesto, California

**June 15, 2021 at 1:00 p.m.**

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1. <a href="#">16-90910</a> -B-13    DURLABH GANDHI <a href="#">JAD</a> -1            Jessica A. Dorn <b><u>Thru #2</u></b>	MOTION TO WAIVE SECTION 1328 CERTIFICATE REQUIREMENT, SUBSTITUTE PARTY, AS TO DEBTOR 5-7-21 [ <a href="#">136</a> ]
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**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 substitute Erik Gandhi in the administration of this bankruptcy case, and waive the deceased debtor's certification otherwise required for entry of a discharge.

Erik Gandhi moves to act as the representative of the deceased debtor Durlabh Gandhi ("Debtor"), who passed away on September 27, 2018, in this bankruptcy proceeding. Erik Gandhi is the son of the Debtor.

**Discussion**

Local Bankruptcy Rule 1016-1(b) allows the moving party to file a single motion, pursuant to Federal Rule of Civil Procedure 18(a) and Federal Rules of Bankruptcy Procedure 7018 and 9014(c), asking for the following relief:

- 1) Substitution as the representative for or successor to the deceased or legally incompetent debtor in the bankruptcy case [Fed. R. Civ. P. 25(a), (b); Fed. R. Bankr. P. 1004.1 & 7025];
- 2) Continued administration of a case under chapter 11, 12, or 13 (Fed. R. Bankr. P. 1016);
- 3) Waiver of post-petition education requirement for entry of discharge [11 U.S.C. §§ 727(a)(11), 1328(g)]; and
- 4) Waiver of the certification requirements for entry of discharge in a Chapter 13 case, to the extent that the representative for or successor to the deceased or incompetent debtor can demonstrate an inability to provide such certifications (11 U.S.C. § 1328).

In sum, the deceased debtor's representative or successor must file a motion to substitute in as a party to the bankruptcy case. The representative or successor may also request a waiver of the post-petition education, and a waiver of the certification requirement for entry of discharge "to the extent that the representative for or

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successor to the deceased or incompetent debtor can demonstrate an inability to provide such certifications." LBR 1016-1(b) (4).

Based on the evidence submitted, the court will grant the relief requested, specifically to substitute Erik Gandhi for Durlabh Gandhi as sole representative in the present bankruptcy case, and to waive the § 1328 and financial management requirements for Durlabh Gandhi. The continued administration of this case is in the best interests of all parties and no opposition being filed by the Chapter 13 Trustee or any other parties in interest.

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

The court will issue an order.

2. [16-90910](#)-B-13 DURLABH GANDHI MOTION FOR HARDSHIP DISCHARGE  
[JAD](#)-2 Jessica A. Dorn 5-7-21 [[141](#)]

### **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.

The motion is filed by Erik Gandhi, son and representative in the administration of the bankruptcy case of debtor Durlabh Gandhi ("Debtor"), who passed away on September 27, 2018. All priority and secured claims are stated as having been paid in full.

### **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, Debtor has satisfied 11 U.S.C. § 1328(b) (1)-(3). The first and third prongs are established because Debtor is unable to make any necessary plan payments or modify the plan since he is now deceased. The second prong is established because Debtor has paid all priority and secured claims in full, and these creditors received as much as what they would have in a chapter 7 bankruptcy.

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. [21-90191](#)-B-13 JOSEPH CALDERON  
[MS-1](#) Mark Shmorgon

MOTION TO VALUE COLLATERAL OF  
INTERNAL REVENUE SERVICE  
5-12-21 [[21](#)]

### **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 Internal Revenue Service at \$0.00.

Debtor moves to value the secured claim of Internal Revenue Service ("Creditor") pursuant to 11 U.S.C. § 506(a). Debtor is the owner of the subject real property commonly known as 3160 Cajun Court, Turlock, California ("Property"). Debtor seeks to value the Property at a fair market value of \$416,859.00 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).

### **Proof of Claim Filed**

The court has reviewed the Claims Registry for this bankruptcy case. It appears that Claim No. 3-1 filed by Internal Revenue Service is the claim which may be the subject of the present motion.

### **Discussion**

The first deed of trust secures a claim with a balance of approximately \$446,679.67. Creditor's junior lien secures a claim with a balance of approximately \$52,899.63 according to Claim No. 3-1. Therefore, Creditor's claim is completely under-collateralized. Creditor's secured claim is determined to be in the amount of \$0.00, and therefore no payments shall be made on the secured claim under the terms of any confirmed Plan. See 11 U.S.C. § 506(a); *Zimmer v. PSB Lending Corp. (In re Zimmer)*, 313 F.3d 1220 (9th Cir. 2002); *Lam v. Investors Thrift (In re Lam)*, 211 B.R. 36 (B.A.P. 9th Cir. 1997).

The valuation motion pursuant to Federal Rule of Bankruptcy Procedure 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.