

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Modesto, California

July 13, 2021 at 1:00 p.m.

1. [21-90002](#)-B-13 ROGER MANSOUR MOTION TO CONFIRM PLAN
[DCJ](#)-1 David C. Johnston 5-27-21 [[40](#)]

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.

July 13, 2021 at 1:00 p.m.

2. [20-90613](#)-B-13 OVIDIO/ANGELICA BARAHONA MOTION TO CONFIRM PLAN
[BSH](#)-3 Brian S. Haddix 6-8-21 [[53](#)]

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, Debtors have not filed their 2020 Federal and State income tax returns. Until Debtors file those returns and the Chapter 13 Trustee is able to review those returns, it cannot be determined whether Debtors' plan is feasible. 11 U.S.C. §1325(a)(6).

Second, Debtors' plan payment is only \$1,132.00 per month in months 1 through 12. With the Trustee's current compensation and expense, the monthly plan payment totals \$1,169.88. Accordingly, Debtors' plan is not 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.

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, Debtors' Schedule E/F provides for the Internal Revenue Service with a priority amount of \$0.00. The Internal Revenue has filed a proof of claim 6 with a priority portion of \$8,049.89. Debtors' plan payment is insufficient to pay this claim. The plan is not feasible under 11 U.S.C. § 1325(a)(6).

Second, feasibility is contingent on the monthly \$500.00 contribution from Debtors' daughter. Debtors have not provided a declaration from the daughter stating her ability and willingness to financially assist the Debtors.

Third, Debtors' plan provides for Westlake Financial Services for the 2015 Chevrolet Impala as a Class 2 claim in the amount of \$8,240.69 to be paid at 5.25% interest a monthly dividend of \$156.46. Westlake Financial Services has filed a proof of claim 10 with a secured portion of \$13,196.95. Debtors' plan is a 60-month plan and the average monthly dividend proposed for the Class 2 claim of Westlake Financial Services will take 105 months to pay said claim. The plan is not feasible under 11 U.S.C. § 1325(a)(6).

Fourth, Debtors' plan provides for payments of \$242.00 a month for 60 months. Debtors are \$242.00 delinquent in plan payments. The last payment in the amount of \$242.00 was posted on April 13, 2021. The next scheduled payment of \$242.00 is due on June 25, 2021. Debtors do not appear to be able to make plan payments proposed and have not carried the burden of showing that the plan complies with 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.

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtors have filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

5. [19-90316](#)-B-13 TERESA AGUILAR
[BSH](#)-6 Brian S. Haddix

MOTION TO MODIFY PLAN
6-2-21 [[76](#)]

Final Ruling

The motion 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.

Section 7.01 of Debtor's plan proposes a monthly payment of \$1,165.00 for 36 months (May 2021 through April 2024). Debtor's son Ernesto Aguilar, who was appointed as successor in this case following the death of his mother, has indicated his desire and willingness to make the proposed plan payment. However, Mr. Aguilar has provided no evidence of his ability to fund the plan.

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.

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtors have filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

Final Ruling

The motion 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 7.01 of Debtor's plan proposes a monthly payment of \$766.00 for 44 months (July 2021 through February 2025). Debtors have failed to file supplemental Schedules I and/or Schedule J to support the plan payment.

Second, Debtors' plan is not proposed in good faith under 11 U.S.C. §1325(a)(3). Confirmation of Debtors' prior plan was contingent upon Debtors providing their state and federal tax returns to the Chapter 13 Trustee on or before April 30 each year during the pendency of this case and modifying the plan if appropriate. As of June 14, 2021, Debtors have not provided their 2020 federal and state tax returns to the Trustee.

The modified plan does not comply with 11 U.S.C. §§ 1322 and 1325(a) and is not confirmed.

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

The court will issue an order.

8. [18-90144](#)-B-13 ART/TERESA SISNEROZ
[JAD](#)-2 Jessica A. Dorn

MOTION TO MODIFY PLAN
6-3-21 [[54](#)]

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy Rule 3015-1(d)(2), 9014-1(f)(1), and Federal Rule of Bankruptcy Procedure 3015(g). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to permit the requested modification and confirm the modified plan.

11 U.S.C. § 1329 permits a debtor to modify a plan after confirmation. The Debtors have filed evidence in support of confirmation. No opposition to the motion was filed by the Chapter 13 Trustee or creditors. The modified plan complies with 11 U.S.C. §§ 1322, 1325(a), and 1329, and is confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtors shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

9. [20-90247](#)-B-13 JEANETTE PIMENTEL MOTION TO MODIFY PLAN
[BSH](#)-3 Brian S. Haddix 5-5-21 [[43](#)]
Thru #10

Final Ruling

The Debtor filed a subsequent motion to modify plan on May 7, 2021. Therefore, this motion to modify plan filed May 5, 2021, is denied as moot.

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

The court will issue an order.

10. [20-90247](#)-B-13 JEANETTE PIMENTEL MOTION TO MODIFY PLAN
[BSH](#)-4 Brian S. Haddix 5-7-21 [[48](#)]

Final Ruling

The motion 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, Section 7 of Debtor's plan provides for plan payments of \$3,269.00 for 31 months, and \$3,528.00 for 29 months. From June 2021 with 47 months remaining of the 60 month plan term, this is an average of \$3,428.81 per month. Debtor has failed to provide admissible evidence that the plan is mathematically feasible. Trustee's calculations indicate that Debtor's plan payment will need to average at least \$3,803.00 in order for Debtor's plan to be feasible as proposed paying unsecured creditors 29%.

Second, Section 3.07 of Debtor's plan modifies the arrearage dividend to Class 1 creditor Rushmore Loan Management from \$1,015.08 beginning month 5 (September 2020) to \$1,087.59, but fails to provide a start date for the new monthly dividend. Feasibility of the plan cannot be determined.

Third, Section 3.08 of Debtor's plan modifies the monthly dividend to Class 2 creditor Ally Financial from \$265.79 to \$265.80, but fails to provide a start date for the new monthly dividend. Feasibility of the plan cannot be determined.

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.

11. [20-90248](#)-B-13 SHERYL MADEROS
[BSH](#)-1 Brian S. Haddix

OBJECTION TO CLAIM OF INTERNAL
REVENUE SERVICE, CLAIM NUMBER 2
4-29-21 [[30](#)]

WITHDRAWN BY M.P.

Final Ruling

The Debtor having filed a notice of withdrawal of its objection, the objection is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(I) and Federal Rules of Bankruptcy Procedure 9014 and 7041. The matter is removed from the calendar.

The objection is ORDERED DISMISSED WITHOUT PREJUDICE for reasons stated in the minutes.

Final Ruling

The motion 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 permit the requested modification and confirm the modified plan.

First, Debtor's supplemental Schedules I and J filed as Exhibit B to the motion to modify was not filed under cover of a properly executed amendment cover sheet. The Debtor has separately filed the same supplemental Schedules I and J with an amendment cover sheet. See dkt. 46.

Second, Section 7.03 of Debtor's plan provides a dividend of "\$121.69 per month as adequate protection payments towards the post-filing mortgage delinquency." The Chapter 13 Trustee's records indicate that the post-petition arrears are \$8,390.68, representing the months of January 2021 through May 2021. Without providing for the specific amount in post-petition arrears, it cannot be determined whether the plan is feasible under 11 U.S.C. § 1325(a)(6). Debtor filed a response stating that the specific amount can be addressed in the order modifying plan.

Provided that the post-petition arrears are specified and the plan is feasible, the modified plan will be deemed to comply with 11 U.S.C. §§ 1322 and 1325(a) and will be confirmed.

The motion is ORDERED GRANTED for reasons stated in the minutes. Counsel for the Debtor shall prepare an appropriate order confirming the Chapter 13 Plan, transmit the proposed order to the Chapter 13 Trustee for approval as to form, and if so approved, the Chapter 13 Trustee will submit the proposed order to the court.

The court will issue an order.

Final Ruling

The motion has been set for hearing on the 35-days' notice required by Local Bankruptcy 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.

14. [16-90775](#)-B-13 KANDACE ATKINS
[BSH](#)-13 Brian S. Haddix

MOTION TO MODIFY PLAN
6-4-21 [[141](#)]

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.

15. [19-90376](#)-B-13 KATHERINE MARTIN
[DCJ-1](#) Brian S. Haddix
Thru #17

OBJECTION TO CLAIM OF INTERNAL
REVENUE SERVICE, CLAIM NUMBER 2
5-27-21 [[41](#)]

Final Ruling

The objection has been set for hearing on at least 44 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(b)(1). The failure of the claimant 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 also 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 sustain in part and overrule in part the objection to Claim No. 2 of the Internal Revenue Service.

Debtor requests that the court disallow the claim of the Internal Revenue Service ("Creditor"), Claim No. 2, as to the assessment dates ranging between November 1993 and December 2008 since they are all more than 10 years prior to the April 26, 2019, petition filing date. Debtor states that 26 U.S.C. § 6502(a)(1) limits the collection period for federal income taxes to 10 years from the date of assessment. Debtor asserts that except for the 2013 taxes in the amount of \$3,917.62, all of the assessments occurred more than 10 years ago and should be disallowed.

Creditor filed a response stating that it agrees that the collection period has expired for the 1992, 1993, 1996, 1997, 1998, 1999, and 2001 tax years. However, Creditor argues that the collection period is still open for the 2007 tax period as a result of Debtor's multiple previous bankruptcies:

- case no. 08-92121 (filed October 3, 2008, and dismissed February 5, 2011),
- case no. 11-90511 (filed February 11, 2011, and dismissed October 20, 2015), and
- case no. 15-91177 (filed December 7, 2015, and dismissed January 24, 2017)

Creditor states that the 2007 tax period was assessed on December 29, 2008. Pursuant to 26 U.S.C. § 6502(a)(1), Creditor had through December 29, 2018, to collect on the tax. However, Debtor filed her first chapter 13 bankruptcy petition (case no. 08-92121) within the 10-year period on October 3, 2008, thus staying the Creditor from collecting on any taxes during the pendency of the bankruptcy case and six months after dismissal of the case. See 11 U.S.C. § 362. That bankruptcy was dismissed on February 5, 2011, and the Creditor was free to collect on its taxes beginning August 5, 2011, through August 5, 2021. Thus, even without considering the subsequent bankruptcy filings - which further stayed and extended out the period which Creditor may collect on the taxes - the collection remained open when Debtor filed the present bankruptcy petition on April 26, 2019.

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 Debtor has not satisfied her burden of overcoming the presumptive validity of the claim as to tax period 2007. However, the Creditor's claim is disallowed as to tax periods 1992, 1993, 1996, 1997, 1998, 1999, and 2001 only. The objection to the proof of claim is sustained in part and denied in part.

The objection is ORDERED SUSTAINED IN PART AND OVERRULED IN PART for reasons stated in the minutes.

The court will issue an order.

16. [19-90376](#)-B-13 KATHERINE MARTIN OBJECTION TO CLAIM OF RESURGENT
[DCJ](#)-3 Brian S. Haddix CAPITAL SERVICES, CLAIM NUMBER
3
5-27-21 [[45](#)]

Final Ruling

The objection has been set for hearing on at least 44 days' notice to the claimant as required by Local Bankruptcy Rule 3007-1(b)(1). The failure of the claimant 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 overrule as moot the objection to Claim No. 3 of LVNV Funding LLC Resurgent Capital Services.

Debtor requests that the court disallow the claim of LVNV Funding LLC Resurgent Capital Services ("Creditor"), Claim No. 3. The claim is asserted to be in the amount of \$10,900.74. The Debtor asserts that the claim should be disallowed because the statute of limitations has run pursuant to California Code of Civil Procedure § 337(1).

On June 28, 2021, Creditor filed a withdrawal of its claim.

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

The court will issue an order.

17. [19-90376](#)-B-13 KATHERINE MARTIN CONTINUED MOTION TO DISMISS
[RDG](#)-2 Brian S. Haddix CASE
5-11-21 [[34](#)]

Final Ruling

This matter was continued from June 1, 2021, at Debtor's request to be heard in conjunction with Debtor's objection to claim number 2 of Internal Revenue Service.¹ The objection to claim number 2 was sustained in part and overruled in part at Item #15, DCJ-1.

Therefore, the Chapter 13 Trustee's motion to dismiss case is denied and the Debtor shall have the opportunity to file a modified plan.

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

¹Not in conjunction with Debtor's objection to claim number 3 as stated in the court's civil minutes at dkt. 49.

The court will issue an order.

18. [20-90663](#)-B-13 JUAN DIAZ AND SUPINDER CONTINUED OBJECTION TO CLAIM OF
[RDG](#)-1 LIDHAR WESTLAKE FINANCIAL SVC, CLAIM
Brian S. Haddix NUMBER 26
5-24-21 [[54](#)]

Final Ruling

This matter was continued from July 6, 2021, to allow any party in interest to file an opposition or response by July 9, 2021, at 5:00 p.m. No opposition or response was filed. Therefore, the court's ruling at dkt. 57 shall become the court's final decision and the continued hearing on July 13, 2021, at 1:00 p.m. is vacated.

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

The court will issue an order.

19. [21-90164](#)-B-13 EVARISTO AVILA CONTINUED OBJECTION TO
[RDG](#)-1 Pro Se CONFIRMATION OF PLAN BY RUSSELL
D. GREER
6-10-21 [[17](#)]

CONTINUED TO 8/10/2021 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF
CREDITORS SET FOR 8/04/2021.

Final Ruling

No appearance at the July 13, 2021, hearing is required. The court will issue an
order.