

**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: October 4, 2022**

**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

**October 4, 2022 at 1:00 p.m.**

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1.	<a href="#"><u>19-91113</u></a> -B-13	PERFECTO/YOLANDA	MOTION TO MODIFY PLAN
	<a href="#"><u>TLC</u></a> -1	DELGADILLO	8-19-22 [ <a href="#"><u>35</u></a> ]
		Tamie L. Cummins	

**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.

**October 4, 2022 at 1:00 p.m.**

2. [22-90215](#)-B-13 TY RHONDA ELEY  
CH-2 Pro Se  
**And #11**  
FWK017, LLC VS.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
9-6-22 [[31](#)]

**Final Ruling**

This case having been dismissed at Item #11, RDG-1, the motion for relief from stay is denied as moot.

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

The court will issue an order.

3. [22-90223](#)-B-13 ALEO PONTILLO  
[RDG](#)-1 David C. Johnston

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
9-1-22 [[17](#)]

### **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). No written reply has been filed to the objection.

Because the plan is not confirmable and the objection is not one that may be resolved in the confirmation order, further briefing is not necessary. See Local Bankr. R. 9014-1(f)(2)(C). The court has also determined that oral argument will not assist in the decision-making process or resolution of the objection. 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 the objection and deny confirmation of the plan.

First, feasibility depends on a motion to value collateral of Michael R. Espraza. To date, Debtor has not filed a motion to value collateral.

Second, Debtor's Schedule I includes business income of \$300.00 a month from Alpha 9 Armory. Debtor has admitted at his meeting of creditors that his Federal Firearm dealer's license is not in good standing and that the Armory business is not currently operating. Without the additional business income, Debtor has monthly net income of only \$47.00 per month. Debtor's plan payment is \$347.00 per month. Therefore the plan is not feasible. 11 U.S.C. §1325(a)(6).

The plan filed July 22, 2022, does not comply with 11 U.S.C. §§ 1322 and 1325(a). The objection is sustained and the plan is not confirmed.

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

The court will issue an order.

4.     [22-90224](#)-B-13     SCOTT SALA                             OBJECTION TO CONFIRMATION OF  
          [RDG](#)-1             Marc Voisenat                         PLAN BY RUSSELL D. GREER  
   9-1-22 [[20](#)]

CONTINUED TO 10/18/22 AT 1:00 P.M. TO BE HEARD AFTER THE CONTINUED MEETING OF CREDITORS  
SET FOR 10/12/22.

**Final Ruling**

No appearance at the October 4, 2022, hearing is required. The court will issue an  
order.

5. [22-90153](#)-B-13 DIANE DOKKHAM OBJECTION TO CLAIM OF CAVALRY  
[CRG](#)-3 Carl R. Gustafson SPV I, LLC, CLAIM NUMBER 1  
**Thru #8** 8-25-22 [[46](#)]

#### **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. 1 of Cavalry SPV I, LLC and continue the matter to October 11, 2022, at 1:00 p.m.**

Debtor requests that the court disallow the claim of Cavalry SPV I, LLC ("Creditor"), Claim No. 1. The claim is asserted to be in the amount of \$764.70. The Debtor asserts that the claim should be disallowed because the statute of limitations has run pursuant to California Code of Civil Procedure § 337 and 11 U.S.C. § 502(b)(1).

According to the proof of claim, the underlying debt is a contract claim, most likely based on a written contract. California law provides a four-year statute of limitations to file actions for breach of written contracts. See Cal. Civ. Pro. Code § 337. This statute begins to run from the date of the contract's breach. According to the proof of claim, the last payment was received on or about May 17, 2017, which is more than four years prior to the filing of this case. Hence, when the case was filed on May 12, 2022, this debt was time barred under applicable nonbankruptcy law, i.e., Cal. Civ. Pro. Code § 337, and must be disallowed. See 11 U.S.C. § 502(b)(1).

Based on the evidence before the court, the Creditor's claim is disallowed in its entirety.

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

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, October 7, 2022, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted 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 October 11, 2022, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on October 11, 2022, at 1:00 p.m.

6. [22-90153](#)-B-13 DIANE DOKKHAM OBJECTION TO CLAIM OF PINNACLE  
[CRG](#)-4 Carl R. Gustafson CREDIT SERVICES, LLC, CLAIM  
NUMBER 2  
8-25-22 [[50](#)]

#### **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. 2 of Pinnacle Credit Services, LLC and continue the matter to October 11, 2022, at 1:00 p.m.**

Debtor requests that the court disallow the claim of Pinnacle Credit Services, LLC ("Creditor"), Claim No. 2. The claim is asserted to be in the amount of \$1,287.58. The Debtor asserts that the claim should be disallowed because the statute of limitations has run pursuant to California Code of Civil Procedure § 337 and 11 U.S.C. § 502(b)(1).

According to the proof of claim, the underlying debt is a contract claim, most likely based on a written contract. California law provides a four-year statute of limitations to file actions for breach of written contracts. See Cal. Civ. Pro. Code § 337. This statute begins to run from the date of the contract's breach. According to the proof of claim, the account was charged off on July 13, 2007, which is more than four years prior to the filing of this case. Hence, when the case was filed on May 12, 2022, this debt was time barred under applicable nonbankruptcy law, i.e., Cal. Civ. Pro. Code § 337, and must be disallowed. See 11 U.S.C. § 502(b)(1).

Based on the evidence before the court, the Creditor's claim is disallowed in its entirety.

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

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, October 7, 2022, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted 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 October 11, 2022, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on October 11, 2022, at 1:00 p.m.

7. <a href="#">22-90153</a> -B-13     DIANE DOKKHAM	OBJECTION TO CLAIM OF MERRICK
<a href="#">CRG</a> -5             Carl R. Gustafson	BANK, CLAIM NUMBER 3
	8-25-22 [ <a href="#">54</a> ]

#### **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. 3 of**

Merrick Bank and continue the matter to October 11, 2022, at 1:00 p.m.

Debtor requests that the court disallow the claim of Merrick Bank ("Creditor"), Claim No. 3. The claim is asserted to be in the amount of \$1,006.28. The Debtor asserts that the claim should be disallowed because the statute of limitations has run pursuant to California Code of Civil Procedure § 337 and 11 U.S.C. § 502(b)(1).

According to the proof of claim, the underlying debt is a contract claim, most likely based on a written contract. California law provides a four-year statute of limitations to file actions for breach of written contracts. See Cal. Civ. Pro. Code § 337. This statute begins to run from the date of the contract's breach. According to the proof of claim, the account was charged off on January 31, 2018, which is more than four years prior to the filing of this case. Hence, when the case was filed on May 12, 2022, this debt was time barred under applicable nonbankruptcy law, i.e., Cal. Civ. Pro. Code § 337, and must be disallowed. See 11 U.S.C. § 502(b)(1).

Based on the evidence before the court, the Creditor's claim is disallowed in its entirety.

### Conditional Nature of this Ruling

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, October 7, 2022, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted 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 October 11, 2022, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on October 11, 2022, at 1:00 p.m.

8. [22-90153](#)-B-13 DIANE DOKKHAM OBJECTION TO CLAIM OF LVNV  
[CRG](#)-6 Carl R. Gustafson FUNDING, LLC, CLAIM NUMBER 5  
8-25-22 [[62](#)]

## 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. 5 of LVNV Funding, LLC and continue the matter to October 11, 2022, at 1:00 p.m.

Debtor requests that the court disallow the claim of LVNV Funding,, LLC ("Creditor"), Claim No. 5. The claim is asserted to be in the amount of \$770.10. The Debtor asserts that the claim should be disallowed because the statute of limitations has run pursuant to California Code of Civil Procedure § 337 and 11 U.S.C. § 502(b)(1).

According to the proof of claim, the underlying debt is a contract claim, most likely based on a written contract. California law provides a four-year statute of



limitations to file actions for breach of written contracts. See Cal. Civ. Pro. Code § 337. This statute begins to run from the date of the contract's breach. According to the proof of claim, the last payment was received on or about September 1, 2006, which is more than four years prior to the filing of this case. Hence, when the case was filed on May 12, 2022, this debt was time barred under applicable nonbankruptcy law, i.e., Cal. Civ. Pro. Code § 337, and must be disallowed. See 11 U.S.C. § 502(b)(1).

Based on the evidence before the court, the Creditor's claim is disallowed in its entirety.

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

Because the motion has been filed, set, and served under Local Bankruptcy Rule 9014-1(f)(2), any party in interest shall have until 5:00 p.m. on Friday, October 7, 2022, to file and serve an opposition or other response to the motion. See Local Bankr. R. 9014-1(f)(2)(C). Any opposition or response shall be served on the Chapter 13 Trustee and the United States trustee by facsimile or email.

If no opposition or response is timely filed and served, the motion will be deemed granted 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 October 11, 2022, at 1:00 p.m. will be vacated.

If an opposition or response is timely filed and served, the court will hear the motion on October 11, 2022, at 1:00 p.m.

9. [21-90579](#)-B-13 MATTHEW/CELESTE JAMISON MOTION TO CONFIRM PLAN  
[JAD](#)-2 Jessica A. Dorn 8-29-22 [[59](#)]

**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.

10. [19-90983](#)-B-13 KIRK TROMBLEY MOTION TO MODIFY PLAN  
[MSN](#)-2 Mark S. Nelson 9-12-22 [[64](#)]

**Final Ruling**

An amended notice of hearing was filed on September 19, 2022, that sets the confirmation hearing of the modified plan to November 1, 2022. Therefore, the October 4, 2022, hearing on the motion to modify plan is vacated.

The court will issue an order.

11. [22-90215](#)-B-13 TY RHONDA ELEY  
[RDG](#)-1 Pro Se  
**See Also #2**

CONTINUED MOTION TO DISMISS  
CASE  
9-9-22 [[42](#)]

**Final Ruling**

This matter was continued from September 27, 2022, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, September 30, 2022. Nothing was filed. Therefore, the court's conditional ruling at dkt. 50, granting the motion to dismiss case, shall become the court's final decision. The continued hearing on October 4, 2022, at 1:00 p.m. is vacated.

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

The court will issue an order.

12. [21-90585](#)-B-13 MICHELLE PIMENTEL-MONTEZ CONTINUED MOTION TO DISMISS  
[RDG](#)-3 David C. Johnston CASE  
9-9-22 [[56](#)]

**Final Ruling**

This matter was continued from September 27, 2022, to allow any party in interest to file an opposition or response by 5:00 p.m. Friday, September 30, 2022. Nothing was filed. Therefore, the court's conditional ruling at dkt. 62, granting the motion to dismiss case, shall become the court's final decision. The continued hearing on October 4, 2022, at 1:00 p.m. is vacated.

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

The court will issue an order.