

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
Courtroom 301 Calendar**

Tuesday, January 9, 2024

Hearing Room 301

9:30 AM

1:

Chapter

#0.00 PLEASE BE ADVISED THAT THE CHAPTER 13 CONFIRMATION CALENDAR
CAN BE VIEWED ON THE COURT'S WEBSITE UNDER:
JUDGES >KAUFMAN,V. >CHAPTER 13 > CHAPTER 13 CALENDAR
(WWW.CACB.USCOURTS.GOV)

Docket 0

Tentative Ruling:

- NONE LISTED -

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#0.00 All hearings on this calendar will be conducted in Courtroom 301 at 21041 Burbank Boulevard, Woodland Hills, California, 91367. All parties in interest, members of the public and the press may attend the hearings on this calendar in person.

Additionally, (except with respect to evidentiary hearings, or as otherwise ordered by the Court) parties in interest (and their counsel) may connect by ZoomGov audio and video free of charge, using the connection information provided below. Members of the public and the press may only connect to the zoom audio feed, and only by telephone. Access to the video feed by these individuals is prohibited.

Parties in interest may participate by ZoomGov video and audio using a personal computer (equipped with camera, microphone and speaker), or a handheld mobile device (such as an iPhone or Android phone). Members of the public, the press and parties in interest may participate by audio only using a telephone (standard telephone charges may apply).

Neither a Zoom nor a ZoomGov account is necessary to participate remotely and there are no fees for doing so. No pre-registration or prior approval is required.

The audio portion of each hearing will be recorded electronically by the Court and that recording will constitute its official record. Recording, retransmitting, photographing or imaging Court proceedings by any means is strictly prohibited.

Join CACB ZoomGov Meeting

Video/audio web address: <https://cacb.zoomgov.com/j/1604481361>

Meeting ID: 160 448 1361

Password: 212356

Telephone conference lines: 1-669-254-5252 OR 1-646-828-7666

For more information on appearing before Judge Kaufman by ZoomGov, please see the information entitled "Tips for a Successful ZoomGov Court Experience" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-victoria-s-kaufman> under

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the tab "Telephonic Instructions."

Docket 0

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1:17-13190 Seferino Carlin

Chapter 13

#25.00 Trustee's Motion to Dismiss Case for Failure to Make Plan Payments

fr. 11/14/23

Docket 101

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Seferino Carlin

Represented By
Devin Sawdayi

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:19-11917 Brenda Medina

Chapter 13

#26.00 Trustee's Motion to Dismiss Case for Failure to Make Plan Payments
fr. 11/14/23

Docket 164

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Brenda Medina

Represented By
Kevin T Simon

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
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10:30 AM

1:20-10569 Michael Henry Moretti and Heather Marie Moretti

Chapter 13

#27.00 Trustee's Motion to Dismiss Case for Failure to Make Plan Payments

fr. 11/14/23

Docket 70

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Henry Moretti

Represented By
Erika Luna

Joint Debtor(s):

Heather Marie Moretti

Represented By
Erika Luna

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
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1:22-10898 Mario Rene Tejada

Chapter 13

#28.00 Trustee's Motion to Dismiss Case for Failure to Make Plan Payments

fr. 7/11/23; 9/12/23; 10/3/23; 11/14/23

Docket 62

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Mario Rene Tejada

Represented By
Nathan A Berneman

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:22-11212 Gabriella Noemi Loos

Chapter 13

#29.00 Trustee's Motion to Dismiss Case for Failure to Make Plan Payments

fr. 11/14/23

Docket 78

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Gabriella Noemi Loos

Represented By
Kevin T Simon

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:22-11411 Wilfredo Chavarria Alas

Chapter 13

**#30.00 Motion to Dismiss Case for Failure to Make
Plan Payments**

Docket 43

***** VACATED *** REASON: Trustee files a withdrawal on 11/30/23 - Dkt.
48.**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Wilfredo Chavarria Alas

Represented By
Kevin T Simon

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:23-10856 Katelyn E Keith and Frank A. Keith

Chapter 13

#31.00 Trustee's Motion to Dismiss Case for Failure to Make Plan Payments

Docket 38

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Katelyn E Keith

Represented By
R Grace Rodriguez

Joint Debtor(s):

Frank A. Keith

Represented By
R Grace Rodriguez

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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11:00 AM

1:22-11351 Andrew Steven Marquez

Chapter 13

#32.00 Debtor's Objection to Proof of Claim Number 10-1
filed by JP Morgan Chase Bank, N.A.

Docket 45

Tentative Ruling:

What is the timing for the respondent to file an amended proof of claim?

Party Information

Debtor(s):

Andrew Steven Marquez

Represented By
Michael E Clark

Movant(s):

Andrew Steven Marquez

Represented By
Michael E Clark
Michael E Clark
Michael E Clark

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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11:00 AM

1:23-10976 Gilbert J Azcarate, Jr

Chapter 13

#33.00 Debtor's Motion For An Order Disallowing The Assessments For The Tax Years 2018, 2020, 2021 And 2022 Set Forth In Proof Of Claim Number 4 Of United States Of America Internal Revenue Service Pursuant To FRBP 3001(c), 11 U.S.C. §502(b)(1)

Docket 42

Tentative Ruling:

Taking into account the facts set forth below, the Court will continue the hearing in order for: (1) the Internal Revenue Service ("IRS") to assess the debtor's recently filed 2019 income tax return; (2) the IRS to complete its evaluation/audit of the debtor's 2020 and 2021 income tax returns; and (3) the debtor to provide more substantial evidence that he filed his 2018 income tax return, including his submission to the Court of the **entire** tax return (with any personal identifiers omitted) and sufficient proof of receipt of that tax return by the IRS. *See Baldwin v. U.S.*, 921 F.2d 836, 841 (9th Cir. 2019)(regarding tax document sent to IRS, presumption arises that tax document was delivered, even if IRS claims not to have received it, when document was sent by registered mail and "taxpayer produces the registration as proof").

The parties should be prepared to discuss the timing for those things to take place, setting deadlines to file any supplemental evidence about this dispute and setting a continued hearing date.

RELEVANT FACTS

On July 12, 2023, Gilbert J. Azcarate, Jr. (the "Debtor") filed a chapter 13 petition. In his latest amended schedule E/F, the Debtor sets forth a claim of the IRS in the amount of \$30,000.00 [doc. 38]. The deadline for government entities to file claims is January 8, 2024.

On August 11, 2023, the IRS filed a proof of claim ("Claim 4-1") for the aggregate amount owed of \$1,200,387.71. The IRS asserts that it has unsecured priority claims in the amount of \$724,481.74 and unsecured nonpriority claims in the amount of \$475,905.97. The aggregate amount is based on income taxes and interest owed for the tax periods 2016, 2018, 2019, 2020, 2021 and 2022. In support of Claim 4-1, the IRS attached Form 410, setting forth its determination of the taxes, interest and

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CONT... **Gilbert J Azcarate, Jr**
penalties owed.

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On December 5, 2023, the IRS filed an amended proof of claim for the aggregate amount owed of \$1,138,953.84 ("Amended Claim"). In its Amended Claim, the IRS asserts unsecured priority claims in the amount of \$663,047.87 and unsecured nonpriority claims in the amount of \$475,905.97. The asserted unsecured priority claims consist of the following taxes and interest owed as of the petition date:

- (i) 2019: \$161,695.00 (tax) and \$43,800.58 (interest) – estimated liability based on a pending examination of the Debtor's filed income tax return;
- (ii) 2020: \$0 (tax) and \$334.23 (interest) – based on the Debtor's filed income tax return;
- (iii) 2020: \$170,216.00 (tax) and \$35,855.83 (interest) – estimated liability based on a pending examination of the Debtor's filed income tax return;
- (iv) 2021: \$217,669.00 (tax) and \$33,477.23 (interest) – estimated liability based on a pending examination of the Debtor's filed income tax return; and
- (v) 2022: \$0.00.

The unsecured nonpriority claims consists of the following taxes and interest owed as of the petition date:

- (i) 2016: \$1,222.97 (interest, based on tax assessed in 2017);
- (ii) 2016: \$1,833.94 (tax, based on assessment made in 2019) and \$858.15 (interest); and
- (iii) 2018: \$46,115.00 (tax) and \$9,635.09 (interest) – estimated, because the income tax return has not been filed, according to the IRS.

As set forth in the Amended Claim, as of the petition date, the penalties on the unsecured priority claims, including interest thereon, are \$413,055.07, and the penalties on the unsecured nonpriority claims, including interest thereon, are \$3,185.75.

On November 13, 2023, the Debtor filed a *Motion for an Order Disallowing the Assessments for the Tax Years 2018, 2020, 2021 and 2022 Set Forth in Proof of*

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CONT... Gilbert J Azcarate, Jr

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Claim Number 4 of the United States of America Internal Revenue Service Pursuant to FRBP 3001(c), 11 U.S.C. § 502(b)(1) (the "Objection") [doc. 42]. Among other things, the Debtor represents that he had filed his 2018, 2020, 2021 and 2022 income tax returns; when the Objection was filed, the Debtor had not yet filed his income tax return for 2019. *See* Declaration of Gilbert J. Azcarate, Jr. attached to the Objection.

Submitted as exhibits to the Debtor's declaration are: (1) a single unsigned page, allegedly from the Debtor's 2018 income tax return; (2) a single unsigned page, allegedly from the Debtor's 2020 income tax return; (3) a single unsigned page, allegedly from the Debtor's 2021 income tax return; and (4) a single unsigned page, allegedly from the Debtor's 2022 income tax return.

Based on the submitted unsigned pages of the Debtor's purported income tax returns (one of which the IRS has no record of being filed), and "preliminary numbers" from the Debtor's accountant about the Debtor's 2019 income tax liability, the Debtor argues that his liability to the IRS is significantly less than the amounts set forth in Claim 4-1. Accordingly, the Debtor requests that the Court disallow the IRS assessments, as set forth in Claim 4-1. *Id.*

On December 20, 2023, the IRS filed an opposition to the Objection [doc. 50]. Among other things, the IRS asserts that it has no record of receiving the Debtor's 2018 income tax return. Declaration of Lynda Walker, submitted with the Opposition. Regarding the Debtor's 2019, 2020 and 2021 income tax returns, the IRS represents that they are under examination, or audit, by the IRS. *Id.*

On January 1, 2024, the Debtor filed a reply [doc. 51]. Among other things, the reply states that the Debtor was not aware that the pertinent income tax returns were under examination and notes that the Debtor "welcomes the opportunity to meet with the IRS about the . . . sums alleged to be owed for 2018 and 2019" and that the Debtor hopes the reply "will open up the much-needed line of communication."

Party Information

Debtor(s):

Gilbert J Azcarate Jr

Represented By
Stella A Havkin

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CONT... Gilbert J Azcarate, Jr

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Movant(s):

Gilbert J Azcarate Jr

Represented By
Stella A Havkin

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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1:23-11117 Nadia M Moguel

Chapter 13

#34.00 U.S. Trustee's Motion Under 11 U.S.C. § 110 For Fines and Disgorgement of Fees Against Bankruptcy Petition Preparer Tenant Protection Group, LLC and Jessica Rodriguez

Docket 25

Tentative Ruling:

Grant. Pursuant to 11 U.S.C. § 110(h)(5), respondents must disgorge the fees paid by the debtor and remit the fines set forth below to the Office of the U.S. Trustee:

1. Respondents failed to sign and print their names and address on the Bankruptcy Petition Preparer Declaration and the Bankruptcy Petition Preparer Disclosure as commanded by 11 U.S.C. § 110(b)(1): **\$1000.00** (\$500.00 per violation)
2. Respondents failed to place on the Bankruptcy Petition Preparer Declaration and the Bankruptcy Petition Preparer Disclosure an identifying number that identifies those who prepared the document as mandated by 11 U.S.C. § 110(c)(1): **\$1000.00** (\$500.00 per violation)
3. Respondents gave legal advice in violation of 11 U.S.C. § 110(e)(2): **\$500.00**
4. Respondents used the term "legal" in their advertisements in violation of 11 U.S.C. § 110(f): **\$500.00**
5. Respondents failed to file an accurate declaration under penalty of perjury disclosing the fees received on behalf of the debtor as dictated by 11 U.S.C. § 110(h)(2): **\$500.00**

Because respondents did not disclose their identity, the Court will triple these fines pursuant to 11 U.S.C. § 110(l)(2)(D), for a total of **\$10,500.00**. Pursuant to 11 U.S.C. § 110(h)(3)(A)(i), the Court will also require disgorgement of **\$1,000.00** in unreasonable fees paid by the debtor.

In addition, by failing to provide the debtor with the Bankruptcy Petition Guidelines,

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Nadia M Moguel

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charging the debtor \$1,000 to prepare and file bankruptcy documents in this case and then concealing their involvement in the case, respondents acted fraudulently in violation of 11 U.S.C. § 110(i)(1). Respondents must pay damages in the amount of **\$2,000.00** to the debtor.

Thus, respondents must remit the following amounts to the Office of the U.S. Trustee: **\$3,000.00 to the debtor pursuant to 11 U.S.C. § 110(h)(3) and 11 U.S.C. § 110(i) and \$10,500.00 payable to the U.S. Trustee.** Respondents must send **certified** funds to the Office of the U.S. Trustee within 30 days after the order is served.

Movant must submit an order within seven (7) days.

Party Information

Debtor(s):

Nadia M Moguel

Pro Se

Movant(s):

United States Trustee (SV)

Represented By
Katherine Bunker

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se