

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

Tuesday, December 10, 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 -

**United States Bankruptcy Court
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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.

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Docket 0

Tentative Ruling:

- NONE LISTED -

**United States Bankruptcy Court
Central District of California
San Fernando Valley
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Tuesday, December 10, 2024

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10:30 AM

1:17-13313 Pedro Mejia Lopez

Chapter 13

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

fr. 5/14/24; 7/16/24, 8/13/24; 9/10/24; 10/8/24

Docket 126

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Pedro Mejia Lopez

Represented By
Donald E Iwuchuku

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
Victoria Kaufman, Presiding
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Tuesday, December 10, 2024

Hearing Room 301

10:30 AM

1:20-10265 Alva Tereza Merida

Chapter 13

#38.00 Trustee's Motion to Dismiss Case for Failure to Make Plan Payments
fr. 10/8/24

Docket 61

***** VACATED *** REASON: Withdrawal of motion filed 10/16/24. [Dkt. 66]**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Alva Tereza Merida

Represented By
Kevin T Simon

Movant(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
San Fernando Valley
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Tuesday, December 10, 2024

Hearing Room 301

10:30 AM

1:22-10457 Michael Scott Patterson

Chapter 13

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

fr. 2/13/24; 4/9/24; 6/11/24; 8/13/24; 10/8/24

Docket 59

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Michael Scott Patterson

Represented By
Jeffrey J Hagen

Movant(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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1:23-10006 Byron G Williams

Chapter 13

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

fr. 2/13/24; 4/9/24; 6/11/24; 8/13/24; 10/8/24

Docket 58

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Byron G Williams

Represented By
Nathan A Berneman

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, December 10, 2024

Hearing Room 301

10:30 AM

1:24-10176 Daniele Clinton Kenney

Chapter 13

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

fr. 8/13/24; 9/10/24; 11/12/24

Docket 46

***** VACATED *** REASON: Motion withdrawn 11/20/24**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Daniele Clinton Kenney

Represented By
David S Hagen

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Tuesday, December 10, 2024

Hearing Room 301

11:00 AM

1:24-11035 Justin Robert Wasmundt and Miranda Chantel Wasmundt

Chapter 13

#42.00 Debtors' Motion for order disallowing late filed claim #7-1 of Portfolio Recovery Associates, LLC pursuant to 11.U.S.C.section 502

Docket 29

Tentative Ruling:

The Court will overrule the *Motion for Order Disallowing Late Filed Claim #7-1 of Portfolio Recovery Associates Pursuant to 11 U.S.C. Section 502* (the "Objection") [doc. 29].

I. BACKGROUND

On June 25, 2024, Justin Robert Wasmundt and Miranda Chantel Wasmundt (the "Debtors") filed a chapter 13 petition. The deadline to file claims is September 3, 2024. *See* doc. 7.

On August 27, 2024, PRA timely filed proof of claim ("Claim 7-1"), asserting an unsecured claim in the amount of \$3,089.01. To Claim 7-1, PRA attached, among other things, an account summary reflecting that the last transaction date for an account ending in 6756 was April 25, 2024. In addition, the account summary stated that the claim amount of \$3,089.01 was broken down as follows: (1) principal of \$2,813.13; (2) interest of \$163.88; and (3) fees of \$112.00.

On October 15, 2024, PRA filed an amended proof of claim ("Claim 7-2"), again asserting an unsecured claim in the amount of \$3,089.01. To Claim 7-2, PRA attached, among other things, a copy of a credit card statement for an account ending in 6756 for the period of May 25, 2024 through June 24, 2024 and an account summary reflecting that the last transaction date on an account ending in 6756 was May 22, 2024. The account summary also stated that the claim amount of \$3,089.01 was broken down as follows: (1) principal of \$2,971.22; (2) interest of \$76.79; and (3) fees of \$41.00.

On October 3, 2024, the Court entered an order confirming the Debtors' plan. On October 28, 2024, the Debtors filed the Objection. The Debtors contends that Claim

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CONT... Justin Robert Wasmundt and Miranda Chantel Wasmundt Chapter 13

7-2 [FN1] was not timely filed. According to the Debtors, on that basis, Claim 7-2 should be disallowed. To the Objection, the Debtors attached the Declaration of Justin Robert Wasmundt and Miranda Chantel Wasmundt (the "Wasmundt Decl."). In their declaration, the Debtors state as follows:

We are the debtors in this Chapter 13 proceeding, and I have personal knowledge of the facts set forth herein. If called as a witness in a court of law, we could and would competently testify thereto.

On June 25, 2024, we filed a voluntary chapter 13 petition, case no. 1:24-bk-11035-VK.

The Deadline for All Creditors to file a Proof of Claim was September 3, 2024. A true and correct copy of Debtors Notice of Chapter 13 Bankruptcy case is attached as Exhibit "1".

On October 15, 2024, Portfolio Recovery Associates LLC filed an unsecured claim in the amount of \$3,089.01 and is listed as bankruptcy claim no. 7 on the Bankruptcy Claims Register ("Proof of Claim") A true and correct copy of the Proof of Claim is submitted as Exhibit "2."

The claim filed by Portfolio Recovery Associates LLC is not filed on a timely basis.

Wasmundt Decl., ¶¶ 1-5. As of December 3, 2024, PRA has not filed a response to the Objection or a further amended proof of claim.

II. DISCUSSION

A. General Objection to Claim Standard

11 U.S.C. § 502(a) provides that a proof of claim is deemed allowed, unless a party in interest objects. Fed. R. Bankr. P. 3001(f) provides that a proof of claim executed and filed in accordance with the rules constitutes *prima facie* evidence of the validity and amount of the claim. *See also* Local Bankruptcy Rule 3007-1(c) ("an objection to claim must be supported by admissible evidence sufficient to overcome the evidentiary effect of a properly documented proof of claim").

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Chapter 13

"To defeat the claim, the objector must come forward with sufficient evidence and show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Lundell v. Anchor Const. Specialists, Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000) (internal citation omitted). "If the objector produces sufficient evidence to negate one or more of the sworn facts in the proof of claim, the burden reverts to the claimant to prove the validity of the claim by a preponderance of the evidence. The ultimate burden of persuasion remains at all times upon the claimant." *Id.* (internal citations omitted); *In re Laptops Etc. Corp.*, 164 B.R. 506, 522 (Bankr. D. Md. 1993) (burden shifts to claimant, who has ultimate burden of persuasion as to validity of its claim, only "upon objection to the claim coupled with the admission of probative evidence which tends to sufficiently rebut the prima facie validity of the claim"); *see also In re Campbell*, 336 B.R. 430, 436 (9th Cir. B.A.P. 2005) ("[o]bjections without substance are inadequate to disallow claims, even if those claims lack the documentation required by Rule 3001(c).").

B. Timeliness of Claims

"Section 502(b)(9) authorizes the bankruptcy court, upon the filing of an objection, to disallow a claim that has not been timely filed." *In re Jackson*, 541 B.R. 887, 890 (9th Cir. B.A.P. 2015); *see also* 11 U.S.C. § 502(b)(9). However, "[u]nder Rule 15(c), an amended pleading relates back to the date of the original pleading whenever the claim or defense asserted in the amendment raises out of the same conduct, transaction, or occurrence set forth in the original pleading." *In re Solari*, 63 B.R. 115, 117 (9th Cir. B.A.P. 1986).

The Ninth Circuit has "a long established liberal policy that permits amendments to a proof of claim. . . . The crucial inquiry is whether the opposing party would be unduly prejudiced by the amendment." *In re Roberts Farms Inc.*, 980 F.2d 1248, 1251 (9th Cir. 1992); *see also In re JSJF Corp.*, 344 B.R. 94, 101–02 (9th Cir. B.A.P. 2006), *aff'd and remanded*, 277 F. App'x 718 (9th Cir. 2008). To determine whether a party is prejudiced by an amended claim, courts consider factors such as "bad faith or unreasonable delay in filing the amendment, impact on other claimants, reliance by the debtor or other creditors, and change of the debtor's position." *Roberts Farms*, 980 F.2d at 1252 (citations omitted). "The burden of showing prejudice is on the party objecting to the amendment." *In re Parrott Broad. Ltd. P'ship*, 518 B.R. 602, 609

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(Bankr. D. Idaho 2014) (citing *In re Sambo's Restaurants, Inc.*, 754 F.2d 811, 816–17 (9th Cir. 1985)).

III. ANALYSIS

The Debtors have not provided a sufficient legal or factual basis for disallowing Claim 7-2. The claims bar date was September 3, 2024. On October 15, 2024, after the bar date, PRA filed Claim 7-2. According to the Debtors, Claim 7-2 should be disallowed as untimely. However, prior to the bar date, PRA timely filed Claim 7-1. If Claim 7-2 "relates back" to Claim 7-1, it was not untimely.

To be considered as an amendment that "relates back" to PRA's timely filed Claim 7-1, Claim 7-2 must rise out of the same the conduct, transaction, or occurrence that forms the basis of Claim 7-1. *See Solari*, 63 B.R. at 117. In proof of Claim 7-1, PRA asserted a claim in the amount of \$3,089.01, based on an account ending in 6756. In Claim 7-2, PRA asserted a claim in the same amount, based on an account ending in the same numbers. Because the transaction that forms the basis of Claim 7-1 arose from the same transaction that forms the basis of Claim 7-2, Claim 7-2 relates back to PRA's timely filed Claim 7-1.

In addition, the Debtors have not met their burden of showing that they are unduly prejudiced by the amendment. *See Roberts Farms*, 980 F.2d at 1251; *see also Parrott Broad*, 518 B.R. at 609; *JSJF Corp.*, 344 B.R. at 101–02. Moreover, the Debtors have not demonstrated any bad faith or unreasonable delay by PRA in filing Claim 7-2, or any change in the Debtors' position. *See Roberts Farms*, 980 F.2d at 1252. Consequently, the Court will deny the Objection.

IV. CONCLUSION

The Court will overrule the Objection.

The Court will prepare the order.

FOOTNOTES

FN1: In the caption of the Objection, the Debtors reference Claim 7-1. This is likely a typographical error as the Debtors attached a copy of Claim 7-2 to the

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Objection.

Chapter 13

Party Information

Debtor(s):

Justin Robert Wasmundt

Represented By
D Justin Harelik

Joint Debtor(s):

Miranda Chantel Wasmundt

Represented By
D Justin Harelik

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

1:24-11155 Rafael Alfaro Carbajal

Chapter 13

#43.00 Order to Show Cause Why Debtor's Counsel Should Not Be Sanctioned
For Failure To Appear At The Confirmation Hearing

fr. 11/12/24

Docket 18

Tentative Ruling:

On October 8, 2024, the Court held a hearing on confirmation of the debtor's chapter 13 plan (the "Confirmation Hearing"). The debtor's counsel, Lauren M. Foley, did not appear at the Confirmation Hearing.

If Ms. Foley appears at the continued confirmation hearing at 9:30 a.m. on December 10, 2024, the Court may discharge the *Order to Show Cause Why Debtor's Counsel Should not be Sanctioned for Failure to Appear at the Confirmation Hearing* [doc. 18].

Party Information

Debtor(s):

Rafael Alfaro Carbajal

Represented By
Lauren M Foley

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se

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11:00 AM

1:24-11577 Eddy Armando Reyes and Thelma Graciela Moscoso

Chapter 13

**#44.00 Order To Show Cause Why Debtors' Counsel Should Not Be Sanctioned
For Failure To Appear At The Confirmation Hearing**

Docket 16

Tentative Ruling:

On November 12, 2024, the Court held a hearing on confirmation of the debtors' chapter 13 plan (the "Confirmation Hearing"). The debtor's counsel, Donald Iwuchuku, did not appear at the Confirmation Hearing.

If Mr. Iwuchuku appears at the continued confirmation hearing at 9:30 a.m. on December 10, 2024, the Court may discharge the *Order to Show Cause Why Debtor's Counsel Should not be Sanctioned for Failure to Appear at the Confirmation Hearing* [doc. 16].

Party Information

Debtor(s):

Eddy Armando Reyes

Represented By
Donald E Iwuchuku

Joint Debtor(s):

Thelma Graciela Moscoso

Represented By
Donald E Iwuchuku

Trustee(s):

Elizabeth (SV) F Rojas (TR)

Pro Se