



**Dated: February 19, 2026**  
**The following is ORDERED:**

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**Denise E. Barnett**  
**UNITED STATES BANKRUPTCY JUDGE**

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**UNITED STATES BANKRUPTCY COURT**  
**WESTER DISTRICT OF TENNESSEE**  
**WESTERN DIVISION**

In re:

**Matthew Richard McKean,**  
Debtor.

Case No.: 25-20591-DEB  
Chapter 13

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**MEMORANDUM OPINION AND ORDER SUSTAINING,**  
**IN PART, DEBTOR’S OBJECTION TO PROOF OF CLAIM 11-1**

This case came before the Court on January 6, 2026, at 10:00 a.m., on Matthew Richard McKean’s (“Debtor’s” or “Mr. McKean’s”) *Objection to Claim No. 11 of Whitney Nicole McKean* (“Objection to Claim”),<sup>1</sup> Whitney Nicole McKean’s (“Creditor’s” or “Ms. Hargrave’s”) *Response to Debtor’s Objection to Claim* (“Response”),<sup>2</sup> and Creditor’s *Amended Response to*

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<sup>1</sup> Debtor’s Obj. to Claim No. 11, ECF No. 51.

<sup>2</sup> Creditor’s Resp., ECF No. 57.

*Debtor's Objection to Claim* (“Amended Response”).<sup>3</sup> The issue before the Court is whether Creditor’s late-filed Proof of Claim 11-1 should be allowed when the *Notice of Chapter 13 Bankruptcy Case* was never served on Creditor. Upon review of the record, Debtor’s Objection to Claim is sustained, in part, for the reasons outlined below.

### **I. BACKGROUND**

On February 4, 2025 (“Petition Date”), Mr. McKean filed a voluntary chapter 13 petition, commencing his chapter 13 case, a chapter 13 plan, a matrix, and other documents.<sup>4</sup> The *Notice of the Chapter 13 Bankruptcy Case* was also entered on the Petition Date.<sup>5</sup> On February 7, 2025, the *Notice of Chapter 13 Bankruptcy Case* was sent out to all creditors listed on the filed matrix.<sup>6</sup> On May 15, 2025, Mr. McKean’s chapter 13 plan was confirmed.<sup>7</sup> On August 19, 2025, Ms. Hargrave filed Proof of Claim 11-1 in the amount of \$33,216.00, which arose from the *Order on Distribution of Remaining Funds* (“Distribution Order”)<sup>8</sup> entered on October 8, 2024, in the parties’ dissolution of marriage case.<sup>9</sup>

On September 19, 2025, Mr. McKean filed his Objection to Claim, contending that Proof of Claim 11-1 was not timely filed and no supporting document was attached to the proof of claim.<sup>10</sup> Ms. Hargrave filed a Response on October 1, 2025, acknowledging that the Distribution

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<sup>3</sup> Creditor’s Amended Resp., ECF No. 65.

<sup>4</sup> Voluntary Pet. and Ch. 13 Plan, ECF Nos. 1 and 2.

<sup>5</sup> Notice of Ch. 13 Bankr., ECF No. 7.

<sup>6</sup> BNC Notice of Ch. 13 Bankr., ECF No. 12.

<sup>7</sup> Order Confirming Ch. 13 Plan, ECF No. 32.

<sup>8</sup> Proof of Claim No. 11-1.

<sup>9</sup> The judgment was for repairs done on Mr. McKean’s house. *In re McKean*, 668 B.R. 196, 198 n.12 (Bankr. W.D. Tenn. 2025). *See also* Creditor’s Resp, Ex. 1, pp. 4-9, ECF No. 57.

<sup>10</sup> Debtor’s Obj. to Claim No. 11, ECF No. 51.

Order should have been attached to Proof of Claim 11-1.<sup>11</sup> The parties acknowledged that Ms. Hargrave's attorney (who represented her in the dissolution of marriage case) was aware of the chapter 13 case and deadline for filing the proof of claim. Also, both parties litigated a motion for turnover of property early in the case. Ms. Hargrave's attorney explained that he and his colleague<sup>12</sup> both believed that the other had timely filed the proof of claim and discovered that they had not.<sup>13</sup> A copy of the Distribution Order was attached to her Response.<sup>14</sup> On December 30, 2025, Ms. Hargrave filed her Amended Response, arguing that Proof of Claim 11-1 should be allowed because Ms. Hargrave was not personally served with the *Notice of Chapter 13 Bankruptcy Case*.<sup>15</sup>

On January 6, 2026, at 10:00 a.m., Debtor and Creditor (through their respective counsel) argued their positions.<sup>16</sup> Debtor argued that Proof of Claim 11-1 was filed late.<sup>17</sup> The deadline to file the claim was April 15, 2025, but Ms. Hargrave filed Proof of Claim 11-1 on August 19, 2025.<sup>18</sup> In response, Ms. Hargrave argued that she was not personally served with the *Notice of Chapter 13 Bankruptcy Case*. At the conclusion of the hearing, the Court took the matters under advisement and invited the parties to submit any additional case law within seven days of the hearing to support their respective arguments.<sup>19</sup>

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<sup>11</sup> Creditor's Resp., ECF No. 57.

<sup>12</sup> Creditor's Resp., ECF No. 57. Now, Ms. Hargrave is represented by Mr. Barton and Mr. Danny Camper.

<sup>13</sup> Creditor's Resp., ECF No. 57.

<sup>14</sup> Creditor's Resp., Ex. 1, pp. 4-9, ECF No. 57.

<sup>15</sup> Creditor's Amended Resp., ECF No. 65.

<sup>16</sup> Hr'g on Jan. 6, 2026, at 11:13 a.m.

<sup>17</sup> Hr'g on Jan. 6, 2026, at 11:13 a.m.

<sup>18</sup> Hr'g on Jan. 6, 2026, at 11:13-11:14 a.m.

<sup>19</sup> Hr'g on Jan. 6, 2026, at 11:21-11:22 a.m.

## **II. DISCUSSION**<sup>20</sup>

The primary issue is whether the Court should allow Creditor's late-filed Proof of Claim 11-1 pursuant to subsection 502(b)(9) of the Code. From the outset, the record is clear that Ms. Hargrave did not personally receive the *Notice of Chapter 13 Bankruptcy Case* and was not listed on the matrix. Ms. Hargrave's attorney (in her dissolution of marriage case) was listed on the matrix and received the *Notice of Chapter 13 Bankruptcy Case*.

The Bankruptcy Code requires service of notice of the commencement of bankruptcy cases.<sup>21</sup> Subsection 342(a) provides, "[t]here shall be given such notice as is appropriate, including notice to any holder of a community claim, of an order for relief in a case under this title."<sup>22</sup> Subsection 342(a) and the Federal Rules of Bankruptcy Procedure 2002(f) require the Clerk of the bankruptcy court to send notice, by mail, to the debtor and all creditors of the order for relief and of the deadline for filing claims.<sup>23</sup>

Due process requires that notice of a bankruptcy case must be "reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections."<sup>24</sup> When a chapter 13 voluntary petition is filed,

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<sup>20</sup> The Court has subject-matter jurisdiction under 28 U.S.C. § 1334(b). Venue is proper in this District. 28 U.S.C. §§ 1408 and 1409. This is a core proceeding under 28 U.S.C. § 157(b)(2)(B). The following shall constitute the court's findings of fact and conclusions of the law in accordance with Rule 7052, Federal Rules of Bankruptcy Procedure.

<sup>21</sup> 11 U.S.C. § 342(a) (2026).

<sup>22</sup> *Id.*

<sup>23</sup> 11 U.S.C. § 342(a) (2026). Rule 2002(f) requires the Clerk of Court to "give the debtor, the trustee, all creditors and indenture trustees notice by mail of . . . the order for relief [and] the time allowed for filing claims pursuant to Rule 3002 . . ." Fed. R. Bankr. P. 2002(f)(1). Under Rule 2002(g), the mailed notice "must be addressed as such entity or an authorized agent provided in its last request filed in the case." Fed. R. Bankr. P. 2002(g)(1) (2026). "[I]f a creditor or indenture trustee has not filed a request under (1) or Rule 5003(e), the notice must be mailed to the address shown on the list of creditors or schedule of liabilities, whichever is filed later. Fed. R. Bankr. P. 2002(g)(2) (2026).

<sup>24</sup> *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

a *Notice of Chapter 13 Bankruptcy Case* is entered, and contains significant information for creditors and important deadlines, including the deadline for all creditors to file a proof of claim, the deadline to object to exemptions, the date when the meeting of creditors will be held, and the confirmation hearing date.<sup>25</sup> The *Notice of Chapter 13 Bankruptcy Case* is mailed to the creditors listed on the matrix.<sup>26</sup> Consistent with subsection 342(g)(1), notice is effective when such notice is brought to the creditor's attention and the creditor receives such notice.<sup>27</sup> Additionally, all debtors are required to file a list of creditors and their addresses pursuant to subsection 521(a)(1)(A) and the Federal Rules of Bankruptcy Procedure 1007(a)(1).<sup>28</sup> Subsection 521(a)(1)(A) provides that "[t]he debtor shall file a list of creditors[.]"<sup>29</sup> The Federal Rules of Bankruptcy Procedure 1007(a)(1) provides, in part:

Voluntary Case. In a voluntary case, the debtor must file with the petition a list containing the name and address of each entity included or to be included on Schedules D, E/F, G, and H of the Official Forms.<sup>30</sup>

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<sup>25</sup> *In re Wilshire Courtyard*, BAP No. CC-10-1275-SaPaKi, 2015 WL 1544681, at \*11 (9th Cir. B.A.P. Apr. 7, 2025).

<sup>26</sup> *See, e.g., In re Wilcox*, Nos. BR 10-32828, 10-32828, at \*2 (10th Cir. B.A.P. Aug. 4, 2011) (explaining that a "list of creditors" must be filed in every bankruptcy case).

<sup>27</sup> Subsection 342(g)(1) provides in its entirety:

(g)(1) Notice provided to a creditor by the debtor or the court other than in accordance with this section (excluding this subsection) shall not be effective notice until such notice is brought to the attention of such creditor. If such creditor designates a person or an organizational subdivision of such creditor to be responsible for receiving notices under this title and establishes reasonable procedures so that such notices receivable by such creditor are to be delivered to such person or such subdivision, then a notice provided to such creditor other than in accordance with this section (excluding this subsection) shall not be considered to have been brought to the attention of such creditor until such notice is received by such person or such subdivision.

11 U.S.C. § 342(g)(1) (2026).

<sup>28</sup> *See, e.g., In re Helios and Matheson Analytics, Inc.*, 629 B.R. 772, 780 (Bankr. S.D.N.Y. 2021) (explaining that Rule 1007(a)(1) "implement[s] and are reinforced by Section 521(a)(1).").

<sup>29</sup> 11 U.S.C. § 521(a)(1)(A) (2026).

<sup>30</sup> Fed. R. Bankr. P. 1007(a)(1) (2026).

Generally, the burden is on the debtor to exercise “reasonable diligence” in completing the schedules and list of creditors.<sup>31</sup>

Here, Mr. McKean filed his voluntary chapter 13 bankruptcy petition on February 4, 2025.<sup>32</sup> On February 4, 2025, the *Notice of Chapter 13 Bankruptcy Case* was entered, and on February 7, 2025, it was mailed out to all the creditors listed on the matrix.<sup>33</sup> Because Ms. Hargrave was not personally listed on the matrix, she did not receive the *Notice of Chapter 13 Bankruptcy Case*. Further, at the January 6 hearing, Debtor’s counsel acknowledged that only Ms. Hargrave’s attorney (in the dissolution of marriage case) received notice,<sup>34</sup> and Ms. Hargrave never personally received notice of the bankruptcy case that included the proof of claim deadline.

**Creditor’s Late-Filed Proof of Claim Should  
Be Disallowed Pursuant to 11 U.S.C. § 502(b)(9)**

Subsection 502(b)(9) and Bankruptcy Rules 3002(c) and 9006(b)(3) are “a comprehensive, unambiguous scheme that disallows untimely filed claims in the Chapter 13 case.”<sup>35</sup> The Bankruptcy Code and Rules leave little room for a bankruptcy court to allow a late-filed proof of claim in a chapter 13 case, absent a few exceptions.<sup>36</sup> Specifically, subsection

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<sup>31</sup> See *Matter of Faden*, 96 F.3d 792, 796 (5th Cir. 1996) (finding that a debtor must exercise “reasonable diligence” in accurately scheduling his debts) (citation omitted); *In re De Jounghe*, 334 B.R. 760, 768 (1st Cir. B.A.P. 2005) (explaining that when a debtor fails to exercise “reasonable diligence” or good faith in filing his schedules, “the bankruptcy court may look to other evidence, including post-petition events, to determine eligibility” to proceed with a chapter 13 bankruptcy case); *In re Stacy*, 405 B.R. 872, 879 (Bankr. N.D. Ohio 2009) (stating that it is the debtor’s burden to exercise “reasonable diligence” in completing his schedules and lists pursuant to Fed. R. Bankr. P. 1007) (citation omitted).

<sup>32</sup> Voluntary Pet., ECF No. 1.

<sup>33</sup> Notice of Ch. 13 Bankr., ECF No. 7 and BNC Notice of Notice of Ch. 13 Bankr., ECF No. 12.

<sup>34</sup> Hr’g on Jan. 6, 2026, at 11:14 a.m.

<sup>35</sup> *In re Brogden*, 274 B.R. 287, 289 (Bankr. M.D. Tenn. 2001).

<sup>36</sup> *In re Tice*, Case No. 21-80226-BPC, 2022 WL 532741, at \*2 (Bankr. M.D. Ala. February 22, 2022).

502(b)(9) provides in its entirety:

(b) Except as provided in subsections (e)(2), (f), (g), (h) and (i) of this section, if such objection to a claim is made, the court, after notice and a hearing, shall determine the amount of such claim in lawful currency of the United States as of the date of the filing of the petition, and shall allow such claim in such amount, except to the extent that—

...

(9) proof of such claim is not timely filed, except to the extent tardily filed as permitted under paragraph (1), (2), or (3) of section 726(a) or under the Federal Rules of Bankruptcy Procedure, except that--

(A) a claim of a governmental unit shall be timely filed if it is filed before 180 days after the date of the order for relief or such later time as the Federal Rules of Bankruptcy Procedure may provide; and

(B) in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required.<sup>37</sup>

Here, none of the exceptions above apply. Proof of Claim 11-1 was filed by Ms.

Hargrave in the amount of \$33,216.00.<sup>38</sup> It is undisputed that Proof of Claim 11-1 was filed late.

The bar date to file claims for non-governmental entities was April 15, 2025.<sup>39</sup> Ms. Hargrave filed Proof of Claim 11-1 on August 19, 2025, which was four months and four days after the bar date.<sup>40</sup>

At the hearing and in both responses, Creditor's counsel did not dispute that the claim was filed late but argued that the claim should be allowed because (1) Ms. Hargrave was not served personally with the *Notice of Chapter 13 Bankruptcy Case*, and (2) Debtor knew of the

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<sup>37</sup> 11 U.S.C. § 502(b)(9) (2026).

<sup>38</sup> Debtor's Obj. to Claim No. 11, ECF No. 51 and Proof of Claim No. 11.

<sup>39</sup> Notice of Ch. 13 Bankr., ECF No. 7 and BNC Notice of Notice of Ch. 13 Bankr., ECF No. 12.

<sup>40</sup> Debtor's Obj. to Claim No. 11, ECF No. 51 and Proof of Claim No. 11.

existence of the claim and knew that Ms. Hargrave intended to hold Debtor liable for the claim.<sup>41</sup> In support of the first position, counsel references 11 U.S.C. § 342 and Bankruptcy Rule 2002 as requiring notice to the creditor. In support of the latter position, counsel invoked the two-prong inquiry applied in *In re FTX Trading Ltd.* in determining whether to allow post-bar date amendments to proofs of claim. First, courts must determine whether there was “a timely assertion of a similar claim,” and second, whether it would be equitable to allow the amended proof of claim.<sup>42</sup> On the first prong, counsel suggested that the late-filed claim sufficiently related back to the original claim (arising from the Distribution Order).<sup>43</sup> On the second prong, counsel argued that it would be equitable to allow the late-filed claim because Proof of Claim 11-1 was a divorce settlement where Ms. Hargrave was attempting to collect a debt and Debtor knew of its existence.<sup>44</sup>

The Court finds *In re FTX Trading Ltd.* legally and factually distinguishable from the case at bar. First, *In re FTX Trading Ltd.* grappled with the question of amending the original proof of claim filed in the bankruptcy case of a cryptocurrency company.<sup>45</sup> The Court finds Ms. Hargrave’s second argument unpersuasive and simply not applicable to the case at bar.<sup>46</sup> Simply put, subsection 502(b)(9) and its exceptions do not support allowance of a late-filed claim.

The better argument is Debtor’s failure to include Ms. Hargrave on the matrix which resulted in her never receiving the *Notice of Chapter 13 Bankruptcy Case*. A creditor can move

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<sup>41</sup> Hr’g on Jan. 6, 2026, at 11:14 a.m.

<sup>42</sup> Hr’g on Jan. 6, 2026, at 11:14 a.m. *See also In re FTX Trading Ltd.*, 669 B.R. 298, 305 (Bankr. D. Del. 2025).

<sup>43</sup> Hr’g on Jan. 6, 2026, at 11:17 a.m.

<sup>44</sup> Hr’g on Jan. 6, 2026, at 11:17 a.m.

<sup>45</sup> *In re FTX Trading Ltd.*, 669 B.R. at 301-05.

<sup>46</sup> Hr’g on Jan. 6, 2026, at 11:14-11:17 a.m. *See also* Creditor’s Resp., ECF No. 57 and Creditor’s Amended Resp., ECF No. 65.

for allowance of a late-filed claim under the Federal Rules of Bankruptcy Procedure 3002(c)(7).<sup>47</sup> Once a creditor files a motion under 3002(c)(7), courts can, then, evaluate whether the provision of the rule applies to the case at bar.<sup>48</sup> Here, no such motion was filed.<sup>49</sup> Without a motion to allow late-filed claim, the Court cannot properly evaluate whether to allow Ms. Hargrave's Proof of Claim 11-1. The Court presently has no mechanism to evaluate allowance or disallowance of the claim. Therefore, the Court finds that Proof of Claim 11-1 is a late-filed claim and should be disallowed pursuant to subsection 502(b)(9).

### **III. CONCLUSION AND ORDER**

For the reasons stated above, the Court finds and concludes that Debtor's Objection to Claim is sustained, in part. Accordingly, it is **ORDERED**:

1. Mr. McKean's *Objection to Claim No. 11-1 of Whitney Nicole McKean* is **SUSTAINED, IN PART**.

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<sup>47</sup> See *In re Williams*, Case No. 25 B 05206, 2025 WL 3070801, at \*2 (Bankr. N.D. Ill. Nov. 3, 2025) (disallowing creditor's late-filed proof of claim where no motion to file a late claim was filed under subsection 502(b)(9) and Rule 3002(c)(7)). Cf. *In re Aguilar*, 668 B.R. 512, 516 (Bankr. S.D. Fla. 2025) (allowing late-filed proof of claim where the creditor filed a motion to allow its late-filed claim, and creditor did not receive adequate notice of the deadline to file a proof of claim in the chapter 13 case under Rule 3002(c)(7)).

<sup>48</sup> Rule 3002(c)(7) provides in its entirety:

(c) Time to File. In a voluntary Chapter 7 case or in a Chapter 12 or 13 case, the proof of claim is timely if filed within 70 days after the order for relief or entry of an order converting the case to Chapter 12 or 13. In an involuntary Chapter 7 case, a proof of claim is timely if filed within 90 days after the order for relief is entered. These exceptions apply in all cases:

(7) *Extending the Time to File*. On a creditor's motion filed before or after the time to file a proof of claim has expired, the court may extend the time to file by no more than 60 days from the date of its order. The motion may be granted if the court finds that the notice was insufficient to give the creditor a reasonable time to file.

Fed. R. Bankr. P. 3002(c)(7) (2026).

<sup>49</sup> Debtor's Obj. to Claim No. 11, ECF No. 51; Creditor's Resp., ECF No. 57; and Creditor's Amended Resp., ECF No. 65.

2. Proof of Claim 11-1 is **DISALLOWED**, without prejudice to Creditor filing a motion to allow late-filed claim pursuant to Bankruptcy Rule 3007(c)(7).

**Copies to be served on:**

**Debtor:** Matthew Richard McKean, 289 Crestmont Cove Cordova, TN 38018.

**Debtor's Attorney:** Bruce A. Ralston, Esq., Hurst Law Firm, P.A., P.O. Box 41497  
Memphis, TN 38174-1497; Email: [bkmail@thehurstlawfirm.com](mailto:bkmail@thehurstlawfirm.com).

**Creditor:** Whitney Hargrave, c/o Joseph D. Barton, Esq., The Law Office of J.D. Barton 6565  
Highway 51 North Millington, TN 38053; Email: [joe@jdbartonlaw.com](mailto:joe@jdbartonlaw.com).

**Creditor's Attorney:** Joseph D. Barton, Esq., The Law Office of J.D. Barton 6565 Highway 51  
North Millington, TN 38053; Email: [joe@jdbartonlaw.com](mailto:joe@jdbartonlaw.com).

**Chapter 13 Trustee:** Sylvia F. Brown, Chapter 13 Trustee, 200 Jefferson Ave. Suite #1113,  
Memphis, TN 38103.

All creditors on the Matrix.