

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman
Bankruptcy Judge
Sacramento, California

January 13, 2009 at 9:30 A.M.

1. [08-36210](#)-B-13J LA QUINTA RIALS HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-5-08 [[12](#)]

Tentative Ruling: The order to show cause is discharged because the debtor paid the missing filing fee installment on December 17, 2008. (Dkt. 16). The Order Approving Payment of Filing Fee In Installments (Dkt. 7) is modified. The entire unpaid balance (\$184.00) of the filing fee shall be paid on or before January 20, 2009, failing which the case will be dismissed without further notice or hearing.

The court will issue a minute order.

2. [08-35724](#)-B-13J ANDREW VALLE HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-4-08 [[18](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot because the bankruptcy case was dismissed by order entered on December 19, 2008. (Dkt. 21). No monetary sanctions are imposed.

The court will issue a minute order.

3. [08-35225](#)-B-13J DONALD KRUG HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-4-08 [[18](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot. This case was automatically dismissed at 12:01 am on December 9, 2008 pursuant to 11 U.S.C. § 521(i), which was confirmed by order entered December 19, 2008 (Dkt. 21).

The court will issue a minute order.

4. [08-35726](#)-B-13J MARTHA VASQUEZ HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-4-08 [[16](#)]

Tentative Ruling: The order to show cause is discharged because the debtor paid the missing filing fee installment on December 8, 2008. (Dkt. 19). No monetary sanctions are imposed.

The court will issue a minute order.

5. [08-32432](#)-B-13J NAILAH MURPHY HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-5-08 [[52](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot because the bankruptcy case was dismissed by order entered on December 18, 2008. (Dkt. 54). No monetary sanctions are imposed.

The court will issue a minute order.

6. [08-35133](#)-B-13J GARY DAWSON HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-4-08 [[18](#)]

Tentative Ruling: None.

7. [08-35535](#)-B-13J PETER/LIZA AISBURY HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-3-08 [[21](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot because the bankruptcy case was dismissed by order entered on December 18, 2008. (Dkt. 25). No monetary sanctions are imposed.

The court will issue a minute order.

8. [08-35240](#)-B-13J BERNARD GRAY HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-12-08 [[17](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot. This case was automatically dismissed at 12:01 am on December 9, 2008 pursuant to 11 U.S.C. § 521(i), which was confirmed by order entered December 19, 2008 (Dkt. 20).

The court will issue a minute order.

9. [08-33641](#)-B-13J BRIAN/KRISTINE HURLEY HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-10-08 [[24](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot because the bankruptcy case was dismissed by order entered on December 18, 2008. (Dkt. 26). No monetary sanctions are imposed.

The court will issue a minute order.

10. [08-34942](#)-B-13J AARON MOUTON HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-10-08 [[19](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot. This case was automatically dismissed at 12:01 am on December 2, 2008 pursuant to 11 U.S.C. § 521(i), which was confirmed by order entered December 19, 2008 (Dkt. 21).

The court will issue a minute order.

11. [08-37345](#)-B-13J LURRILINE CARLISLE HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-3-08 [[8](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot. This case was automatically dismissed at 12:01 am on January 10, 2009 pursuant to 11 U.S.C. § 521(i).

The court will issue a minute order.

12. [08-37345](#)-B-13J LURRILINE CARLISLE HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-3-08 [[9](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot. This case was automatically dismissed at 12:01 am on January 10, 2009 pursuant to 11 U.S.C. § 521(i).

The court will issue a minute order.

13. [08-36554](#)-B-13J KENNETH JOHNSON HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-18-08 [[16](#)]

Tentative Ruling: None.

14. [08-34055](#)-B-13J PAMELA MCGAUGHY HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-4-08 [[36](#)]

Tentative Ruling: None.

15. [08-34055](#)-B-13J PAMELA MCGAUGHY HEARING - TRUSTEE'S
JPJ #2 OBJECTION TO DEBTOR'S
CLAIM OF EXEMPTION
11-25-08 [[29](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The trustee's objection to debtor's claims of exemption is sustained.

The debtor has failed to cite the applicable legal authority for claiming the following exemptions in Schedule C: 1) Golden One/Saving, 2) Miscellaneous Household Goods, 3) Women's Apparel, 4) Hobby Equipment, and 5) 2005 Chrysler.

The court will issue a minute order.

16. [08-36357](#)-B-13J CALVIN/JENNIFER STEWART HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-9-08 [[17](#)]

Disposition Without Oral Argument: The order to show cause is discharged because the debtors filed the missing document on December 11, 2008 (Dkt. 18). No monetary sanctions are imposed.

The court will issue a minute order.

17. [08-38069](#)-B-13J JASWINDER TAMBER HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-17-08 [[8](#)]

Tentative Ruling: None.

18. [08-35677](#)-B-13J ORALIA PEREZ HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-8-08 [[16](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot. This case was automatically dismissed at 12:01 am on December 16, 2008 pursuant to 11 U.S.C. § 521(i), which was confirmed by order entered December 19, 2008 (Dkt. 20).

The court will issue a minute order.

19. [08-36078](#)-B-13J FAITH GATES HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-8-08 [[13](#)]

Tentative Ruling: None.

20. [08-35680](#)-B-13J FRANCES FINLEY HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-8-08 [[15](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot because the bankruptcy case was dismissed by order entered on December 18, 2008. (Dkt. 18). No monetary sanctions are imposed.

The court will issue a minute order.

21. [08-36386](#)-B-13J 3109 KING ST PROPERTY MGMT HEARING - ORDER
[08-2633](#) PROMULGATORESS 394717, ET AL TO SHOW CAUSE FOR FAILURE
ROBERT EVERWEIN, VS. TO TENDER FEES
12-3-08 [[7](#)]

MICHAEL SIGALA, ET AL.

Tentative Ruling: None.

22. [08-36386](#)-B-13J 3109 KING ST PROPERTY MGMT HEARING - ORDER
[08-2634](#) PROMULGATORESS 394717, ET AL TO SHOW CAUSE FOR FAILURE
ROBERT EBERWEIN, VS. TO TENDER FEES
12-3-08 [[7](#)]

CITY OF BERKELEY HOUSING
ADVISORY COMMISSION, ET AL.

Tentative Ruling: None.

23. [08-34392](#)-B-13J NORMAN MASTERS HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-10-08 [[24](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot because the bankruptcy case was dismissed by order entered on December 18, 2008. (Dkt. 26). No monetary sanctions are imposed.

The court will issue a minute order.

24. [08-36293](#)-B-13J MARLETTE ZACKERY HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-11-08 [[19](#)]

Tentative Ruling: The order to show cause is discharged because the debtor paid the missing fee on December 24, 2008 (Dkt. 24). The Order Approving Payment of Filing Fee In Installments (Dkt. 7) is modified. The entire unpaid balance (\$138.00) of the filing fee shall be paid on or before January 20, 2009, failing which the case will be dismissed without further notice or hearing.

The court will issue a minute order.

25. [08-36195](#)-B-13J IGNACIO SANCHEZ HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-10-08 [[17](#)]

Tentative Ruling: None.

26. [08-28302](#)-B-13J FELIX GARCIA HEARING - MOTION FOR
JHK #1 RELIEF FROM THE AUTOMATIC
DAIMLERCHRYSLER FINANCIAL STAY AND CO-DEBTOR STAY
SERVICES AMERICAS LLC, VS. 11-25-08 [[43](#)]

Disposition Without Oral Argument: The motion is denied as moot because the bankruptcy case was dismissed by order entered on January 9, 2009 (Dkt. 52).

The court will issue a minute order.

27. [08-30207](#)-B-13J MARK/KELI MORRIS HEARING - MOTION FOR
PD #1 RELIEF FROM AUTOMATIC STAY
WELLS FARGO HOME 12-1-08 [[27](#)]
MORTGAGE, INC., VS.

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is denied as moot. The court awards no fees and costs.

The plan filed July 25, 2008 (Dkt. 5), confirmed by order entered December 16, 2008 (Dkt. 33), already provides relief from the automatic stay for this claim.

The court will issue a minute order.

28. [08-33411](#)-B-13J JACKIE/SHARON HUBBARD HEARING - MOTION FOR
TJS #1 RELIEF FROM AUTOMATIC STAY
JP MORGAN CHASE BANK, N.A., VS. 12-3-08 [[34](#)]

Disposition Without Oral Argument: The motion is denied as moot because the bankruptcy case was previously dismissed by order entered December 18, 2008.

The court will issue a minute order.

29. [08-29414](#)-B-13J EDDIE/RENEE MEJORADO HEARING - MOTION TO
ADR #2 CONFIRM SECOND AMENDED
CHAPTER 13 PLAN
11-25-08 [[51](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition. Creditor Countrywide Home Loans Servicing, LP's objections are sustained for the reasons stated in its opposition. The motion to confirm the plan filed November 25, 2008 is denied. The court construes the trustee's request for a conditional dismissal order as a countermotion filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In the absence of opposition, the countermotion will be conditionally denied, the conditions being that on or before January 27, 2009 the debtors file a new plan and a motion to confirm the new plan, properly serve the new plan and the motion and set the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

30. [08-29414](#)-B-13J EDDIE/RENEE MEJORADO HEARING - MOTION FOR
PD #2 RELIEF FROM AUTOMATIC STAY
GMAC MORTGAGE, LLC, VS. 12-16-08 [[58](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtors pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit movant to foreclose on the real property located at 8240 Cashel Way, Sacramento, CA 95829 (APN 121-0400-005-0000) (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The court awards no fees and costs. The 10-day period specified in Fed.R.Bankr.P. 4001(a)(3) is waived. Movant shall serve a copy of the order granting

relief on the holders of all junior liens, if any. Except as so ordered, the motion is denied.

The court will issue a minute order.

31. [08-31015](#)-B-13J TIQUILA BLEDSOE HEARING - MOTION FOR
WGM #1 RELIEF FROM AUTOMATIC STAY
INDYMAC FEDERAL BANK, FSB, VS. ON REAL PROPERTY
11-25-08 [[30](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is denied as moot. The court awards no fees and costs.

The plan filed August 8, 2008 (Dkt. 5), confirmed by order entered October 10, 2008 (Dkt. 29), already provides relief from the automatic stay for this claim.

The court will issue a minute order.

32. [08-21018](#)-B-13J WILLIAM/PAULETTE CONWAY HEARING - OBJECTION
JPJ #2 TO CLAIM NO. 26 OF LIVINGSTON'S
CONCRETE SERVICES
11-10-08 [[142](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim No. 26 filed June 12, 2008 by Livingston's Concrete Service, Inc. in the amount of \$8,631.95 (the "Claim") is disallowed except to the extent previously paid by the trustee.

The Claim was not timely filed. The last date to file a non-government claim was June 4, 2008, and to file a government claim was July 28, 2008. The Claim was filed on June 12, 2008.

The court will issue a minute order.

33. 08-21018-B-13J WILLIAM/PAULETTE CONWAY
HSM #5

CONT. HEARING - MOTION TO STAY
OBJECTION TO CLAIM PROCEEDING
AND TO MODIFY AUTOMATIC STAY
TO ALLOW PRE-PETITION ARBITRA-
TION TO PROCEED TO FINAL
DETERMINATION
11-26-08 [165] O.S.T.

CONT. FROM 12-16-08

Tentative Ruling: The court has reviewed the stipulation of the parties filed January 5, 2009 (Dkt. 185). Based on the stipulation, the court is prepared to issue an order containing the following provisions, and no others:

1. The motion is granted, subject to the terms conditions set forth herein.
2. Subject to the following terms and conditions, the automatic stay is modified to allow AAC to proceed with the existing arbitration concerning the claim of \$125,433.90, plus such further costs, fees, and expenses as incurred and allowable, of AAC asserted to be secured by the debtor's real property commonly known as 11317 Fair Oaks Blvd., Fair Oaks, CA.
3. Modification of the automatic stay is conditioned on the arbitration being reopened to permit debtors and AAC to present evidence, examine witnesses, cross-examine witnesses, object to evidence, and conduct such hearings as are necessary and appropriate to conclude the arbitration for the arbitrator to enter a final award.
4. Modification of the automatic stay includes authorization for the arbitrator, after further hearings conducted in accordance with the foregoing provisions, to issue a final award determining the dispute and obligation owing by debtors to AAC.
5. Modification of the automatic stay includes authorization for such further state court judicial proceedings as are necessary for the arbitration award issued in accordance with the foregoing provisions to be reduced to a final judgment.
6. The automatic stay is not modified to allow enforcement of any judgment entered after the arbitration.
7. Upon issuance of the final award by the arbitrator and the filing of a petition to confirm arbitration award in the state court action, the prevailing party, which shall be AAC if the final judgment awards a recovery against the debtors and the debtors in all other cases, shall file a noticed motion for entry of an order allowing the AAC claim in the amount awarded in the state court judgment.
8. The arbitration shall be conducted according to the Construction Industry Rules of the American Arbitration Association, unless the parties agree otherwise.
9. The objection to the claim of AAC (DCN SAC-07) is dismissed without prejudice.

Counsel for movant shall submit an order that conforms to the court's ruling.

34. [04-30620](#)-B-13J JEFFREY/NYLENE RAY
JMS #1
- HEARING - MOTION FOR
RELIEF FROM AUTOMATIC STAY OR
IN THE ALTERNATIVE, FOR
ADEQUATE PROTECTION
11-24-08 [52]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. § 362(d)(1) in order to permit the movant to foreclose on the real property located at 5420 Hesper Way, Carmichael, CA 95608 (APN 232-0242-015) (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The court awards attorney's fees equal to the lesser of \$675 or the amount actually billed plus costs of \$150. These fees and costs may be enforced only against the movant's collateral. The 10-day period specified in Fed.R.Bankr.P. 4001(a)(3) is not waived. Movant shall serve a copy of the order granting relief on the holders of all junior liens, if any. Except as so ordered, the motion is denied.

The court will issue a minute order.

35. [08-34821](#)-B-13J PAMELA BARBY
SW #1
WACHOVIA DEALER SERVICES,
INC., VS.
- HEARING - MOTION FOR
RELIEF FROM AUTOMATIC STAY
12-17-08 [21]

Disposition Without Oral Argument: The motion is denied as moot because the bankruptcy case was dismissed by order entered on January 9, 2009 (Dkt. 28).

The court will issue a minute order.

36. [08-21323](#)-B-13J MICHAEL ROBINSON AND
APN #2 TANIYA OGATA
WELLS FARGO AUTO FINANCE, VS.
- HEARING - MOTION FOR
RELIEF FROM AUTOMATIC STAY
12-15-08 [54]

Tentative Ruling: This matter is continued to February 10, 2009 at 9:30 am to be heard with the debtors' motion to confirm plan filed December 30, 2008. The automatic stay shall remain in effect pending the final hearing. The court finds that the debtor is likely to prevail at the final hearing.

The court will issue a minute order.

37. [08-27423](#)-B-13J ROBERT/LORRAINE RUIZ HEARING - MOTION FOR
RSL #1 RELIEF FROM AUTOMATIC STAY
BANK OF AMERICA, N.A., VS. ON REAL PROPERTY
12-16-08 [[32](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is denied as moot.

The plan filed June 4, 2008 (Dkt. 5), confirmed by order entered October 31, 2008 (Dkt. 31), already provides relief from the automatic stay for this claim.

The court will issue a minute order.

38. [08-32925](#)-B-13J SHERRI STITH HEARING - MOTION FOR
DMM #1 RELIEF FROM AUTOMATIC STAY
WACHOVIA MORTGAGE, FSB, VS. 10-24-08 [[19](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The motion is denied. The court awards no fees and costs.

Mmovant has not shown that debtor is delinquent in her plan payments to the trustee or that the trustee has otherwise failed to remit installment payments to the movant. Movant has failed to support the motion with statements and/or evidence required by LBR 4001-(d) (1) (ii) and (d) (2).

The court will issue a minute order.

39. [08-32925](#)-B-13J SHERRI STITH HEARING - MOTION FOR
DMM #2 RELIEF FROM AUTOMATIC STAY
WACHOVIA MORTGAGE, FSB, VS. 10-24-08 [[25](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The motion is denied. The court awards no fees and costs.

Mmovant has not shown that debtor is delinquent in her plan payments to the trustee or that the trustee has otherwise failed to remit installment payments to the movant. Movant has failed to support the motion with statements and/or evidence required by LBR 4001-(d) (1) (ii) and (d) (2).

The court will issue a minute order.

40. [08-25032](#)-B-13J MICHAEL/LINDA FINKEN HEARING - MOTION FOR
JHK #1 RELIEF FROM AUTOMATIC STAY
DAIMLERCHRYSLER FINANCIAL 12-5-08 [[24](#)]
SERVICES AMERICAS LLC, VS.

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is denied as moot. The court awards no fees and costs.

The plan filed May 1, 2008 (Dkt. 7), confirmed by order entered July 2, 2008 (Dkt. 22), already provides relief from the automatic stay for this claim.

The court will issue a minute order.

41. [07-28933](#)-B-13J DANIEL WILLIAMS HEARING - MOTION FOR
ND #1 RELIEF FROM AUTOMATIC STAY
DEUTSCHE BANK NATIONAL TRUST, VS. ON REAL PROPERTY
12-10-08 [[91](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted to the extent set forth herein. The automatic stay is modified pursuant to 11 U.S.C. §§ 362 (d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 1468 Stephenson Street, Marysville, CA 95901 (APN 020-473-007) (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The court awards no fees and costs. The 10-day period specified in Fed.R.Bankr.P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

The court will issue a minute order.

42. [08-34140](#)-B-13J TANI SPITTS HEARING - MOTION FOR
PD #1 RELIEF FROM AUTOMATIC STAY
AMERICA'S SERVICING CO., VS. 12-1-08 [[22](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted to the extent set forth herein. The automatic stay is modified pursuant to 11 U.S.C. §§ 362 (d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 7774 Perdez Court, Citrus Heights, CA 95610 (APN 216-0282-008-0000) (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The court awards no fees and costs. The 10-day period specified in Fed.R.Bankr.P.

4001(a)(3) is not waived. Except as so ordered, the motion is denied.

The court will issue a minute order.

43. [07-26742](#)-B-13J RICHARD/JEANNETT JAYNE CONT. HEARING - MOTION FOR
PD #1 RELIEF FROM AUTOMATIC STAY
BANK OF AMERICA MORTGAGE, 10-28-08 [[50](#)]
ET AL., VS.

CONT. FROM 11-25-08

Tentative Ruling: This matter continued from November 25, 2008 to allow the parties to file a stipulation resolving this matter. Nothing further has been filed. Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The motion is granted in part. The automatic stay is modified as against the estate and the debtors pursuant to 11 U.S.C. § 362(d)(1) in order to permit the movant to foreclose on the real property located at 3568 Balls Ferry Road, Cottonwood, CA 96022 (APN 088-250-0009-000) (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 10-day period specified in Fed.R.Bankr.P. 4001(a)(3) is not waived. Movant shall serve a copy of the order granting relief on the holders of all junior liens, if any. Except as so ordered, the motion is denied.

Debtors have breached their confirmed plan by failing to make required payments to the trustee which would, in turn, allow the trustee to make required payments to movant. Simply filing the second modified plan, which adds post-petition arrearages to the plan in Class 2, does not provide any payment to movant, does not automatically eliminate the breach of the confirmed plan, and does not automatically provide adequate protection to movant. Movant is not adequately protected.

The court will issue a minute order.

44. [08-27645](#)-B-13J KIM TRUONG AND NHI VOONG CONT. HEARING - MOTION FOR
RJC #1 RELIEF FROM AUTOMATIC STAY
SANTANDER CONSUMER USA, INC., VS. 11-18-08 [[36](#)]

CONT. FROM 12-16-08

Disposition Without Oral Argument: The motion is denied as moot.

An identical motion for relief from automatic stay filed by creditor Santander Consumer USA, Inc. is decided elsewhere on this calendar.

The court will issue a minute order.

45. [08-27645](#)-B-13J KIM TRUONG AND HEARING - MOTION FOR
RJC #1 NHI VOONG RELIEF FROM AUTOMATIC STAY
SANTANDER CONSUMER USA, INC., VS. 12-16-08 [[43](#)]

Tentative Ruling: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is denied as moot. The court awards no fees and costs.

The plan filed August 8, 2008 (Dkt. 19), confirmed by order entered November 19, 2008 (Dkt. 42), already provides relief from the automatic stay for this claim.

Movant's request for a waiver of the filing fee (Dkt. 52) is denied. First, movant has cited no authority for waiver of the filing fee for a motion for relief from automatic stay filed by a secured creditor. Second, the court continued the motion for proper service on the debtors (Dkt. 50). Movant chose to file a new motion, thereby incurring a second filing fee. The result is no different than if the court had denied the first motion without prejudice for improper service, which the court can do in the future if movant prefers that approach.

The court will issue a minute order.

46. [08-32152](#)-B-13J THOMAS/LORNA JACKSON HEARING - MOTION FOR
JMS #1 RELIEF FROM AUTOMATIC STAY OR
CHASE HOME FINANCE, LLC, VS. IN THE ALTERNATIVE, FOR
ADEQUATE PROTECTION
12-3-08 [[30](#)]

Disposition Without Oral Argument: The motion is denied as moot because the bankruptcy case was dismissed by order signed on January 9, 2009.

The court will issue a minute order.

47. [07-29855](#)-B-13J GWENDOLYN/HORACE SIMPSON HEARING - MOTION FOR
PD #1 RELIEF FROM AUTOMATIC STAY
CHASE HOME FINANCE, LLC, VS. 12-4-08 [[129](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The motion is granted in part. The automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. § 362(d)(1) in order to permit the movant to foreclose on the real property located at 8319 Harney Way, Sacramento, CA 95829 (the "Property") and to obtain possession of the Property following the sale, all in accordance with

51. [05-35472](#)-B-13J ROBERT/MARIA MORGAN
JHK #1
DAIMLERCHRYSLER FINANCIAL
SERVICES AMERICAS LLC, VS.

HEARING - MOTION FOR
RELIEF FROM AUTOMATIC STAY
12-9-08 [[147](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtors pursuant to 11 U.S.C. § 362(d)(1) in order to permit the movant to obtain possession of its collateral, a 2001 Kia Rio (VIN KNADC123016059244) (the "Collateral"), to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim including any attorneys' fees awarded herein. The 10-day period specified in Fed.R.Bankr.P. 4001(a)(3) is ordered waived due to the fact that the Collateral is depreciating in value. Except as so ordered, the motion is denied.

The court will issue a minute order.

52. [08-27881](#)-B-13J CLAUDIO/SHEILA GOMEZ
SL #1

HEARING - AMENDED MOTION
TO MODIFY CHAPTER 13 PLAN
11-17-08 [[26](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition, and the motion to confirm the plan filed November 17, 2008 is denied.

The court will issue a minute order.

53. [08-27881](#)-B-13J CLAUDIO/SHEILA GOMEZ
PD #1
AMERICA'S SERVICING CO., VS.

HEARING - MOTION FOR
RELIEF FROM AUTOMATIC STAY
12-3-08 [[30](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtors pursuant to 11 U.S.C. § 362(d)(1) in order to permit the movant to foreclose on the real property located at 4306 Galewood Way, Carmichael, CA 95608 (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 10-day period specified in Fed.R.Bankr.P. 4001(a)(3) is not waived. The court awards no fees and

costs. Movant shall serve a copy of the order granting relief on the holders of all junior liens, if any. Except as so ordered, the motion is denied.

Counsel for the moving party shall submit an order consistent with the foregoing ruling.

54. [08-36183](#)-B-13J RAFAEL SIERRA AND HEARING - MOTION FOR
ASW #1 ROSALIA LOPEZ RELIEF FROM AUTOMATIC STAY
U.S. BANK, N.A., VS. 12-11-08 [[39](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in resolving this matter.

This matter is continued to January 27, 2009 at 9:30 am to allow the movant to serve the debtors' attorney at his address of record. On or before January 13, 2009, the movant shall serve the motion, its supporting papers, and notice of the continued hearing on the debtors' attorney at his address of record, and file proof of such service with the court within three court days thereafter. If the movant fails to do any of the foregoing the motion will be denied without prejudice for improper service.

The court will issue a minute order.

55. [08-35993](#)-B-13J MARVIN/BEATRICE HAMILTON HEARING - MOTION FOR
APN #1 RELIEF FROM AUTOMATIC STAY
WELLS FARGO FINANCIAL, VS. 12-15-08 [[15](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtors pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit movant to obtain possession of its collateral, a 2004 Mitsubishi Endeavor (VIN 4A4MN31S64E0294394) (the "Vehicle"), to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim including any attorneys' fees awarded herein. The 10-day period specified in Fed.R.Bankr.P. 4001(a)(3) is waived. Except as so ordered, the motion is denied.

The court will issue a minute order.

56. [08-27295](#)-B-13J CLAYTON WINTER ND #1 DEUTSCHE BANK, N.A., VS. HEARING - MOTION FOR RELIEF FROM AUTOMATIC STAY ON REAL PROPERTY 12-12-08 [[44](#)]

Tentative Ruling: This motion is continued to a final hearing on February 10, 2009 at 9:30 a.m. The automatic stay shall remain in effect pending the final hearing. The court finds that the debtor is likely to prevail at the final hearing.

The court will issue a minute order.

57. [08-34598](#)-B-13J HARVEY/MARLENE LINN PD #1 GMAC MORTGAGE, LLC, VS. HEARING - MOTION FOR RELIEF FROM AUTOMATIC STAY 12-15-08 [[22](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtors pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit movant to foreclose on the real property located at 7252 Lindale Drive, Sacramento, CA 95828 (APN 051-0245-008-0000) (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The court awards no fees and costs. The 10-day period specified in Fed.R.Bankr.P. 4001(a)(3) is not waived. Movant shall serve a copy of the order granting relief on the holders of all junior liens, if any. Except as so ordered, the motion is denied.

The court will issue a minute order.

58. [08-32001](#)-B-13J FRANK/DEBORAH SIMS SDB #3 HEARING - MOTION FOR ORDER CONFIRMING SECOND AMENDED CHAPTER 13 PLAN 11-24-08 [[25](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted and the second amended plan filed November 24, 2008 is confirmed.

Counsel for the debtor shall submit an order using EDC form 3-081-03 (Rev. 7/1/03) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

59. [08-29804](#)-B-13J MARTIN/MARICELA VAZQUEZ
SL #1

HEARING - MOTION
TO VALUE COLLATERAL OF
WELLS FARGO BANK, N.A.
12-12-08 [[20](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Wells Fargo Bank's collateral securing its second deed of trust, real property located at 3711 Didcot Circle, Sacramento, CA 95838, had a value of \$140,000.00 on the date of the petition. The property is encumbered by a first deed of trust also held by Wells Fargo Bank with a balance of approximately \$150,341.00. Thus, the value of the collateral available to Wells Fargo Bank on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

60. [08-29804](#)-B-13J MARTIN/MARICELA VASQUEZ
SL #2

HEAIRING - MOTION
TO VALUE COLLATERAL OF
WELLS FARGO BANK, N.A.
12-12-08 [[23](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Wells Fargo Bank's collateral securing its third deed of trust, real property located at 3711 Didcot Circle, Sacramento, CA 95838, had a value of \$140,000.00 on the date of the petition. The property is encumbered by a first deed of trust also held by Wells Fargo Bank with a balance of approximately \$150,341.00. Thus, the value of the collateral available to Wells Fargo Bank on its third deed of trust is \$0.00. \$0.00 of creditor's claim secured by the third deed of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

61. [08-30904](#)-B-13J MARCELENE RASH
PD #1

CONT. HEARING - OBJECTION
TO CONFIRMATION OF PLAN
BY GMAC MORTGAGE, LLC
9-22-08 [[16](#)]

CONT. FROM 10-28-08

Disposition Without Oral Argument: This matter continued from October 28, 2008 with a briefing schedule. Opposition was due December 30, 2008. Replies were due January 6, 2009. Nothing further has been filed in this matter. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

Creditor GMAC Mortgage, LLC's objection is sustained, and the motion to confirm the plan filed August 6, 2008 is denied.

The court will issue a minute order.

62. [08-30904](#)-B-13J MARCELENE RASH
JPJ #1

CONT. HEARING - OBJECTION
TO CONFIRMATION OF PLAN
BY TRUSTEE
9-24-08 [[22](#)]

CONT. FROM 10-28-08

Disposition Without Oral Argument: This matter continued from October 28, 2008 with a briefing schedule. Opposition was due December 30, 2008. Replies were due January 6, 2009. Nothing further has been filed in this matter. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The trustee's objections first, second, fourth, and fifth objections are sustained, for the reasons stated in the chapter 13 trustee's opposition, and the motion to confirm the plan filed August 6, 2008 is denied. The trustee's third objection is overruled as the trustee has not evaluated the totality of the circumstances test to show that the plan has not been proposed in good faith.

The court will issue a minute order.

63. [08-33504](#)-B-13J SCOTT/CHRISTINE ARENTZ
WGM #1

HEARING - OBJECTION TO
CONFIRMATION OF DEBTORS'
CHAPTER 13 PLAN AND OPPOSITION
TO MOTION TO VALUE COLLATERAL
BY JPMORGAN CHASE BANK, N.A.
12-10-08 [[38](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The objection is overruled.

The motion is granted and the amended plan filed November 12, 2008 is confirmed. Creditor Oakland Municipal Credit Union's objection under 11 U.S.C. § 1325(a)(3) is overruled.

Creditor has not evaluated the totality of the circumstances test to show that the plan has not been proposed in good faith. Fidelity & Casualty Co. of New York v. Warren (In re Warren), 89 B.R. 87, 92 (9th Cir. BAP 1988) *citing* Goeb v. Heid (In re Goeb), 675 F.2d 1386, 1389-90 (9th Cir.1982).

Counsel for the debtor shall submit an order using EDC form 3-081-03 (Rev. 7/1/03) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

67. [08-28808](#)-B-13J DAVID/SHAWNDA PRUITT HEARING - MOTION
CYB #4 FOR CONFIRMATION OF DEBTORS'
SECOND AMENDED CHAPTER 13 PLAN
11-12-08 [[45](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted and the second amended plan filed November 12, 2008 is confirmed.

Counsel for the debtor shall submit an order using EDC form 3-081-03 (Rev. 7/1/03) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

68. [08-34109](#)-B-13J PAMELA STOTTLEMYRE HEARING - MOTION
RI #1 TO CONFIRM DEBTOR'S FIRST
AMENDED CHAPTER 13 PLAN
11-13-08 [[22](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted and the amended plan filed November 13, 2008 is confirmed.

Counsel for the debtor shall submit an order using EDC form 3-081-03 (Rev. 7/1/03) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

69. [08-34109](#)-B-13J PAMELA STOTTLEMYRE
JPJ #2

HEARING - TRUSTEE'S
OBJECTION TO DEBTOR'S
CLAIM OF EXEMPTION
11-25-08 [[30](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The trustee's objection to debtor's claims of exemption is sustained.

The debtor has sought to exempt TransAmerica life insurance without citing adequate legal authority for doing so.

The court will issue a minute order.

70. [08-32810](#)-B-13J TIMOTHY/MONICA KLEMENS
JPJ #2

HEARING - TRUSTEE'S
MOTION TO CONVERT CASE TO A
CHAPTER 7 PROCEEDING OR IN THE
ALTERNATIVE DISMISS CASE
12-15-08 [[35](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted, and this case is converted to one under Chapter 7.

Conversion of this case, rather than dismissal, is in the best interests of creditors and the estate.

The court will issue a minute order.

71. [08-30411](#)-B-13J VALERIY/SVETLANA
ADS #3 ZAGARAYCHUK

HEARING - MOTION
TO VALUE COLLATERAL OF
BANK OF AMERICA
12-10-08 [[48](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Bank of America's collateral securing its second deed of trust, real property located at 10201 Goinyour Way, Sacramento, CA 95827, had a value of \$215,000.00 on the date of the petition. The property is encumbered by a first deed of trust held by Downey Savings and Loan Association with a balance of approximately \$237,390.22. Thus, the value of the collateral available to Bank of America on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second deed of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

72. [08-32111](#)-B-13J WILLIAM/ROSALYN LOMACK
ADS #1
- HEARING - MOTION
TO VALUE COLLATERAL OF
TRAVIS CREDIT UNION
12-1-08 [[16](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Travis Credit Union's collateral securing its second deed of trust, real property located at 608 Canvasback Drive, Suisun City, CA 94585, had a value of \$225,000.00 on the date of the petition. The property is encumbered by a first deed of trust held by Countrywide Home Loans with a balance of approximately \$357,940.00. Thus, the value of the collateral available to Travis Credit Union on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second deed of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

73. [06-24612](#)-B-13J BRIAN MILLER
SDB #1
- HEARING - MOTION
TO MODIFY CHAPTER 13 PLAN
AFTER CONFIRMATION
11-14-08 [[16](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition, and the motion to confirm the plan filed November 14, 2008 is denied.

The court will issue a minute order.

74. [08-34212](#)-B-13J MARIA OROZCO
SDB #1
- CONT. HEARING - MOTION
FOR ORDER CONFIRMING
CHAPTER 13 PLAN
11-3-08 [[14](#)]

CONT. FROM 12-16-08

Disposition Without Oral Argument: The motion is continued to February 24, 2009 at 9:30 a.m. to be heard with the debtor's motion to value the collateral of the United States Small Business Administration.

Confirmation of the plan depends on the success of the motion to value collateral.

The court will issue a minute order.

75. [08-34212](#)-B-13J MARIA OROZCO
SDB #2
- CONT. HEARINB - DEBTOR'S
MOTION FOR ORDER VALUING
COLLATERAL OF U.S. SMALL
BUSINESS ADMINISTRATION, ET AL.
11-17-08 [[21](#)]

CONT. FROM 12-16-08

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

On December 24, 2008, counsel for debtor and US Small Business Administration filed a stipulation in which the parties agreed to continue this matter to the court's February 24, 2009 calendar. An order approving the stipulation and continuing this matter to the court's February 24, 2009 calendar was entered on December 29, 2008. This matter is therefore dropped from this calendar.

76. [08-360 14](#)-B-13J GLENN/RICA HUDSON
MET #1
- HEARING - MOTION FOR
ORDER VALUING COLLATERAL
OF CHASE HOME FINANCE
12-8-08 [[17](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is continued at the request of the movants to February 10, 2009 at 9:30 am to allow respondent Chase Home Finance to file a response to this motion.

The court will issue a minute order.

77. [08-36015](#)-B-13J CHRISTIAN/JACQUELINE
MET #1 GAFFIELD
- HEARING - MOTION FOR
ORDER VALUING COLLATERAL
OF BENEFICIAL
12-8-08 [[12](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Beneficial's collateral securing its second deed of trust, real property located at 4843 Silver Creek Road, Fairfield, CA 94534, had a value of \$292,000.00 on the date of the petition. The

property is encumbered by a first deed of trust also held by Beneficial with a balance of approximately \$427,904.00. Thus, the value of the collateral available to Beneficial on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second deed of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

78. [08-35816](#)-B-13J DAVID/SUSAN GRIMES
JPJ #1

HEARING - OBJECTION
TO CONFIRMATION OF PLAN
BY TRUSTEE
12-10-08 [[13](#)]

Tentative Ruling: The trustee's objection and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's objection, and the motion to confirm the plan filed October 30, 2008 is denied. The motion to dismiss is conditionally denied, the conditions being that on or before January 27, 2009, the debtors file a new plan, a motion to confirm the new plan and a motion to value Countrywide's collateral, properly serve the new plan and the motions and set the motions for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

79. [08-36916](#)-B-13J NORMAN AISENBREY
JPJ #1

CONT. HEARING - TRUSTEE'S
MOTION FOR IMPOSITION OF
SANCTIONS UPON DEBTOR
11-21-08 [[9](#)]

CONT. FROM 12-16-08

Tentative Ruling: Neither the respondent within the time for opposition nor the movant within the time for reply has filed a separate statement identifying each disputed material factual issue relating to the motion. Accordingly, both movant and respondent have consented to the resolution of the motion and all disputed material factual issues pursuant to FRCivP 43(e). LBR 9014-1(f)(1)(ii) and (iii).

The trustee's motion for the imposition upon debtors of compensatory sanctions in the amount of \$5,572.00 is granted. Said sanctions are payable to movant and may be collected as a judgment. In addition, Debtors Norman and Janice Aisenbrey are prohibited from filing, singly or jointly, another bankruptcy case until the earlier of (1) the awarded sanctions have been paid in full or (2) the proposed debtor(s) disclose

this order to the court where a filing is proposed and receive prior permission to file from such court.

The chapter 13 trustee seeks the imposition of sanctions upon debtor Norman Aisenbrey pursuant to Fed. R. Bankr. P. 9011(c), due to the filing of multiple petitions by debtor and debtor's spouse, Janice Aisenbrey. The bankruptcy court has the inherent power to deter bad faith abuse of the bankruptcy process by imposing sanctions. See In re Dyer, 322 F.3d 1178, 1196 (9th Cir. 2003) and In re Deville, 361 F.3d 539, 550-51 (9th Cir. 2004); see generally In re Hessinger, 192 B.R. 211 (Bankr. N.D. Cal. 1996) (holding that bankruptcy court had authority to issue sanctions against law firm pursuant to 11 U.S.C. § 105(a)).

Between the debtor and his spouse, a total of fourteen (14) petitions have been filed since June 2002, and a total of seven (7) petitions have been pending and dismissed within the past year. These multiple filings provide a record of willful misconduct sufficient to warrant the sanctions imposed by the court.

The court will issue a minute order.

80. [08-36916](#)-B-13J NORMAN AISENBREY
JPJ #2

CONT. HEARING - TRUSTEE'S
MOTION TO DISMISS CASE WITH
PREJUDICE (THE DEBTOR HAS
FILED A TOTAL OF FOURTEEN
PETITIONS SINCE JUNE OF 2002,
ET AL.)
11-21-08 [[14](#)]

CONT. FROM 12-17-08

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

This case is dismissed with prejudice.

"Section 349(a) of the [Bankruptcy] Code provides that dismissal of a case is without prejudice unless the court, for cause, orders otherwise. A dismissal with prejudice is a drastic sanction which may affect substantial rights of the litigant and should only be used in extreme situations." In re Martin-Trigona, 35 B.R. 596, 601 (Bankr. S.D.N.Y. 1983). In general, such a sanction is only appropriate where there is a record of "delay and contumacious" conduct by the petitioner. Id. The debtors' fourteen (14) bankruptcy filings since June 2002, and a total of seven (7) petitions have been pending and dismissed within the past year, present such a record here.

The court will issue a minute order.

81. [08-20218](#)-B-13J EVERETT/ROBIN ADAMS
JPJ #2

HEARING - OBJECTION
TO CLAIM NO. 7 OF
TRIAD FINANCIAL CORP
11-10-08 [[71](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The objection is sustained. The Claim was not timely filed. The last date to file a claim was May 7, 2008, and to file a government claim was July 5, 2008. Triad Financial Corporation filed the Claim for \$27,242.88 on June 16, 2008.

The court will issue a minute order.

82. [08-36818](#)-B-13J KATHERINE BOGUE
MWB #1

HEARING - MOTION TO
VALUE COLLATERAL OF UNITED
AMERICAN BANK
12-4-08 [[12](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, United American Bank's collateral securing its second deed of trust, real property located at 19225 Eighth Road, Cottonwood, CA 96022, had a value of \$400,000.00 on the date of the petition. The property is encumbered by a first deed of trust held by Option One with a balance of approximately \$406,426.00. Thus, the value of the collateral available to United American Bank on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second deed of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

83. [08-36818](#)-B-13J KATHERINE BOGUE
MWB #2

HEARING - MOTION FOR
ORDER APPROVING LOAN
MODIFICATION
12-8-08 [[17](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The debtor's application to motion for an order to approve a loan modification is granted.

The court will issue a minute order.

84. [08-20625](#)-B-13J CARLOS/ANA AGUILERA
JPJ #1
HEARING - OBJECTION
TO CLAIM NO. 27 OF
CHARLES MCMURRAY COMPANY
11-10-08 [[32](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The objection is sustained. The Claim was not timely filed. The last date to file a claim was May 28, 2008, and to file a government claim was July 16, 2008. Charles McMurray Company filed the Claim for \$16,460.80 on August 14, 2008.

The court will issue a minute order.

85. [08-33828](#)-B-13J RIGO/SOPHIA TREVINO
ADR #2
HEARING - MOTION
TO VALUE COLLATERAL OF
WACHOVIA DEALER SERVICES
12-9-08 [[31](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Wachovia Dealer Services' collateral, a 2005 Dodge Ram 1500, had a value of \$11,310.00 on the date of the petition. Thus, \$11,310.00 of the creditor's claim is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

86. [08-30729](#)-B-13J REBECCA FAIN
CYB #2
HEARING - MOTION
FOR CONFIRMATION FOR DEBTOR'S
FIRST AMENDED CHAPTER 13 PLAN
11-10-08 [[29](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted and the amended plan filed October 16, 2008 is confirmed.

Counsel for the debtor shall submit an order using EDC form 3-081-03 (Rev. 7/1/03) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

87. [08-23530](#)-B-13J SHANEL LOVE HEARING - MOTION
SAC #7 TO CONFIRM SECOND AMENDED
CHAPTER 13 PLAN
12-3-08 [[123](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted and the amended plan filed December 3, 2008 is confirmed.

Counsel for the debtor shall submit an order using EDC form 3-081-03 (Rev. 7/1/03) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

88. [08-23530](#)-B-13J SHANEL LOVE HEARING - OBJECTION
SAC #8 TO PROOF OF CLAIM OF HFC
11-14-08 [[112](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The objection is sustained. Claim No. 7 filed by Household Finance Company is disallowed as a secured claim and allowed as a general unsecured claim in the amount of \$18,369.30.

The court will issue a minute order.

89. [08-35630](#)-B-13J BRYCE/PATRICIA MCDONALD HEARING - OBJECTION TO
APN #1 CHAPTER 13 PLAN BY WELLS
FARGO FINANCIAL
12-10-08 [[15](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

Creditor Wells Fargo Financial's objection is sustained. Confirmation of the debtors' initial plan, filed October 28, 2008, is denied.

The court will issue a minute order.

90. [08-34931](#)-B-13J KEVIN/SHERRIE HARRIS
JLK #1

HEARING - MOTION
FOR ORDER VALUING COLLATERAL
OF HSBC MORTGAGE SERVICES
11-14-08 [[16](#)]

Tentative Ruling: None.

The parties shall be prepared to propose a continued hearing date that will allow HSBC to obtain a relevant valuation of the real property located at 8049 Helmsdale Drive, Sacramento, CA 95828 and allow the parties to complete any discovery that may otherwise be required.

91. [08-35631](#)-B-13J GERARDO/MIRTA AGUILAR
PGM #1

HEARING - MOTION TO
VALUE COLLATERAL OF GMAC
MORTGAGE, LLC
12-10-08 [[16](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, GMAC Mortgage, LLC's collateral securing its second deed of trust, real property located at 4417 Shenango Way, Elk Grove, CA 95758, had a value of \$300,000.00 on the date of the petition. The property is encumbered by a first deed of trust held by Greenpoint Mortgage with a balance of approximately \$372,000.00. Thus, the value of the collateral available to GMAC Mortgage, LLC on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second deed of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

92. [08-35631](#)-B-13J GERARDO/MIRTA AGUILAR
PGM #2

HEARING - MOTION TO
VALUE COLLATERAL OF GREEN
TREE SERVICES, LLC
12-10-08 [[20](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Green Tree Servicing, LLC's collateral securing its third deed of trust, real property located at 4417 Shenango Way, Elk

Grove, CA 95758, had a value of \$300,000.00 on the date of the petition. The property is encumbered by a first deed of trust held by Greenpoint Mortgage with a balance of approximately \$372,000.00. Thus, the value of the collateral available to Green Tree Servicing, LLC on its third deed of trust is \$0.00. \$0.00 of creditor's claim secured by the third deed of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

93. [07-20933](#)-B-13J GARY/LOIS BENEDICT
WW #2
- HEARING - MOTION TO
CONFIRM SECOND MODIFIED
CHAPTER 13 PLAN
12-9-08 [[54](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted and the modified plan filed December 9, 2008 is confirmed.

The court will issue a minute order.

94. [08-30833](#)-B-13J RICHARD/MARY ZERGA
PGM #1
- HEARING - MOTION
TO CONFIRM DEBTORS' FIRST
AMENDED PLAN
11-12-08 [[38](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

Creditor Wells Fargo Financial's objection is sustained. The motion to confirm the plan filed November 12, 2008 is denied.

The court will issue a minute order.

95. [08-30833](#)-B-13J RICHARD/MARY ZERGA
PGM #2
- HEARING - MOTION
TO VALUE COLLATERAL OF
AMERICAN GENERAL FINANCE
11-12-08 [[42](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, American General Finance's collateral, consisting of furniture, had a value of \$200.00 on the date of the petition. Thus, \$200.00 of the creditor's claim is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

96. [08-30833](#)-B-13J RICHARD/MARY ZERGA
PGM #3

HEARING - MOTION
TO VALUE COLLATERAL OF
BASS AND ASSOCIATES
11-12-08 [[46](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Bass and Associates' collateral, a television, had a value of \$250.00 on the date of the petition. Thus, \$250.00 of the creditor's claim is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

97. [08-30833](#)-B-13J RICHARD/MARY ZERGA
PGM #4

HEARING - MOTION
TO VALUE COLLATERAL OF ECAST
SETTLEMENT CORP./HOUSEHOLD
BANK/BEST BUY CO. INC.
11-12-08 [[50](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Ecast Settlement Corp./Household Bank/Best Buy Co. Inc.'s collateral, consisting of electronics, had a value of \$200.00 on the date of the petition. Thus, \$200.00 of the creditor's claim is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

98. [08-30833](#)-B-13J RICHARD/MARY ZERGA
PGM #5

HEARING - MOTION
TO VALUE COLLATERAL OF WELLS
FARGO CA/WELLS FARGO
FINANCIAL ACCEPTANCE
11-12-08 [[54](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

Creditor Wells Fargo Financial's objection is sustained, and the motion is denied.

Although the debtors' opinion of value is admissible as lay opinion evidence under Fed. R. Evid. 701, the opinion is not persuasive where it conflicts with commercial publication evidence admissible under Fed. R. Evid. 803(17) and where the debtors have provided no explanation of the basis for their opinion or the discrepancy it creates.

The court will issue a minute order.

99. [08-31034](#)-B-13J RENEE REITAS
SAC #3

HEARING - MOTION
TO CONFIRM FIRST AMENDED
CHAPTER 13 PLAN
11-12-08 [[41](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition, and the motion to confirm the plan filed November 12, 2008 is denied. The motion to dismiss is conditionally denied, the conditions being that on or before January 27, 2009, the debtors file a new plan and a motion to confirm the new plan, properly serve the new plan and the motion and set the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

100. [08-35534](#)-B-13J ROBERT TUBB AND
KAT #1 MARY ELLIS

HEARING - OBJECTION
TO CONFIRMATION OF CHAPTER 13
PLAN BY MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.
11-20-08 [[18](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

Creditor Mortgage Electronic Registration System, Inc.'s ("Creditor") objection is sustained. The motion to confirm the initial plan filed November 3, 2008 is denied.

The plan fails to provide for the full amount of Creditor's arrearage claim. Therefore, the plan is not feasible pursuant to 11 U.S.C. § 1325(a)(6).

The court will issue a minute order.

101. [08-31635](#)-B-13J RICHARD SANDERS
FF #2

HEARING - MOTION TO
CONFIRM SECOND AMENDED
CHAPTER 13 PLAN
11-25-08 [[35](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

Creditor Internal Revenue Service's objection is sustained for the reasons stated in its opposition. The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition. The motion to confirm the plan filed November 12, 2008 is denied. The trustee's countermotion to dismiss is conditionally denied, the conditions being that on or before January 27, 2009, the debtors file a new plan and a motion to confirm the new plan, properly serve the new plan and the motion and set the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

102. [08-35735](#)-B-13J DIANE CLARK
PGM #1

HEARING - MOTION
TO VALUE COLLATERAL OF
DEUTSCHE BANK/OCWEN
12-11-08 [[16](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Deutsche Bank/OCWEN's collateral securing its second deed of trust, real property located at 3037 Margate Way, Rancho Cordova, CA 95670, had a value of \$170,000.00 on the date of the petition. The property is encumbered by a first deed of trust held by Homeq Servicing with a balance of approximately \$256,000.00. Thus, the value of the collateral available to Deutsche Bank/OCWEN on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

103. [08-22036](#)-B-13J HILDAROSA RAMONA AND
SDB #5 MARTINA RENDEROS

HEARING - MOTION TO
MODIFY CHAPTER 13 PLAN
AFTER CONFIRMATION
11-19-08 [[81](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition, and the motion to confirm the plan filed November 19, 2008 is denied.

The court will issue a minute order.

104. [08-22836](#)-B-13J TERESITA QUINTOS
SDB #2

HEARING - MOTION FOR
ORDER CONFIRMING CHAPTER 13 PLAN
11-18-08 [[41](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

Creditor Bayview Loan Servicing's objection is sustained in part, and the motion to confirm the plan filed November 18, 2008 is denied. The court awards no fees or costs. Creditor's request to dismiss the chapter 13 case with prejudice is denied.

Creditor's first objection is sustained under 11 U.S.C. § 1325(a)(5)(B)(iii)(I). Creditor's second objection is overruled. Creditor's third objection is overruled.

The court will issue a minute order.

105. [08-33238](#)-B-13J ADRIANNE ROBINSON
MET #1

HEARING - MOTION FOR
ORDER VALUING COLLATERAL
OF INDYMAC BANK
11-17-08 [[23](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Indymac Bank's collateral securing its second deed of trust, real property located at 158 Glenwood, Hercules, CA 94547 had a value of \$125,000.00 on the date of the petition. The property is encumbered by a first deed of trust held by American Home Mortgage Services with a balance of approximately \$305,000.00. Thus, the value of the collateral available to Indymac Bank on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

106. [08-33238](#)-B-13J ADRIANNE ROBINSON
MET #2

HEARING - MOTION FOR
ORDER VALUING COLLATERAL
OF PATELCO CREDIT UNION
11-17-08 [[27](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Patelco Credit Union's collateral, a 2001 Mercedes Benz C240, had a value of \$10,150.00 on the date of the petition. Thus, \$10,150.00 of the creditor's claim is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

107. [08-33238](#)-B-13J ADRIANNE ROBINSON
MET #3

HEARING - MOTION
TO CONFIRM PLAN
11-17-08 [[31](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted and the first amended plan filed November 17, 2008 is confirmed.

Counsel for the debtor shall submit an order using EDC form 3-081-03 (Rev. 7/1/03) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

108. [04-24540](#)-B-13J SHEILA WILSON-MATE
CRR #2

HEARING - MOTION
TO GRANT RELIEF FROM
JUDGMENT ORDER
12-11-08 [[37](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is denied without prejudice for procedural defects.

The notice of hearing, filed on December 11, 2008, fails to adequately specify whether written or oral opposition is required by this motion in violation of LBR 9014-1(d)(3).

The court will issue a minute order.

109. [04-24540](#)-B-13J SHEILA WILSON-MATE
CRR #3

HEARING - MOTION
TO MODIFY CHAPTER 13 PLAN
AFTER CONFIRMATION
12-11-08 [[32](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is denied without prejudice.

The success of this motion depends upon the outcome of debtor's motion for relief from judgment, which is denied elsewhere on this calendar.

The court will issue a minute order.

110. [08-33540](#)-B-13J ANGELITA ADAMS
JPJ #1

CONT. HEARING - OBJECTION
TO CONFIRMATION OF PLAN
BY TRUSTEE
10-30-08 [[15](#)]

CONT. FROM 11-25-08

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The attached motion to avoid the lien of Beneficial in the amount of \$6,686.00 on real property located at 4231 Arnold Way, Mather, CA 95855, is denied without prejudice due to procedural defects. The second attached motion to avoid the lien of Citibank in the amount of \$9,258.03.00 on real property located at 4231 Arnold Way, Mather, CA 95855, is denied without prejudice due to procedural defects. The third attached motion to avoid the lien of Wells Fargo Financial Bank in the amount of \$5,505.54 on real property located at 4231 Arnold Way, Mather, CA 95855, is denied without prejudice due to procedural defects. The trustee's objections are sustained, for the reasons stated in the chapter 13 trustee's objection, and the debtors' initial plan filed September 23, 2008 is denied confirmation. The motion to dismiss is conditionally denied, the conditions being that on or before January 27, 2009, the debtors file a new plan, a motion to confirm the new plan and any necessary motion(s) to value collateral, properly serve the new plan and the motion(s) and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice.

Debtor's "opposition" filed December 15, 2008 (Dkt. 23) is not a substantive opposition and is disregarded. Once a briefing schedule is established, filing a "placeholder opposition" in an attempt to preserve an ability to present substantive opposition orally at the continued hearing is ineffective.

The court will issue a minute order.

111. [08-33540](#)-B-13J ANGELITA ADAMS
KAT #1

HEARING - OBJECTION
TO CONFIRMATION OF CHAPTER 13
PLAN BY DEUTSCHE BANK NATIONAL
TRUST COMPANY
12-11-08 [[19](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The objection to confirmation is overruled.

The objection is untimely. Movant filed the objection on December 11, 2008. General Order 05-03 ¶ 3(c) and the Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors & Deadlines (Dkt. 9) required objections to

confirmation and opposition to the attached motions to value to be filed by October 30, 2008.

The court will issue a minute order.

112. [08-27741](#)-B-13J GEORGINA MCKEMIE-LOPEZ
ADS #1
- HEARING - MOTION
TO VALUE COLLATERAL OF
COUNTRYWIDE HOME LOANS, INC.
12-1-08 [[15](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Countrywide Home Loans, Inc.'s collateral securing its second deed of trust, real property located at 3339 Calico Court, Sacramento, CA 95826 had a value of \$235,000.00 on the date of the petition. The property is encumbered by a first deed of trust also held by Countrywide Home Loans, Inc. with a balance of approximately \$260,733.85. Thus, the value of the collateral available to Countrywide Home Loans, Inc. on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

113. [07-26742](#)-B-13J RICHARD/JEANNETT JAYNE
MAS #4
- HEARING - MOTION
TO CONFIRM SECOND MODIFIED
CHAPTER 13 PLAN
11-12-08 [[64](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition, and the motion to confirm the plan filed November 12, 2008 is denied.

The court will issue a minute order.

114. [08-35844](#)-B-13J LAUREEN RUSS
ND #1

HEARING - OBJECTION TO
CONFIRMATION OF CHAPTER 13
PLAN BY SAXON MORTGAGE
12-4-08 [[15](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The objection is overruled as moot. By order signed on January 12, 2009, this case was converted to a case under chapter 7.

The court will issue a minute order.

115. [08-35844](#)-B-13J LAUREEN RUSS
JPJ #1

HEARING - OBJECTION
TO CONFIRMATION OF PLAN
BY TRUSTEE
12-10-08 [[19](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The objection is overruled as moot. The trustee's request for an order dismissing the case is denied as moot. By order signed on January 12, 2009, this case was converted to a case under chapter 7.

The court will issue a minute order.

116. [08-36244](#)-B-13J JOHN/DONNA FOX
NUU #1

HEARING - MOTION
TO VALUE COLLATERAL OF
CITIMORTGAGE, INC.
12-12-08 [[12](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Citimortgage's collateral securing its second deed of trust, real property located at 4660 Country Scene Way, Sacramento, CA 95833 (the "Property"), had a value of \$151,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Morequity with a balance of approximately \$274,070.00. Thus, the value of the collateral available to Citimortgage on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

117. [07-24245](#)-B-13J GRACE PASSARELLA
JPJ #1

HEARING - OBJECTION
TO CLAIM NO. 12 OF
TARGET NATIONAL BANK
11-10-08 [[30](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter. The objection is overruled as moot.

On December 8, 2008, creditor Target National Bank filed a notice of withdrawal of claim no. 12 on the court's claims register. The filing of the notice withdraws the claim to which the trustee's objection is directed.

The court will issue a minute order.

118. [07-24245](#)-B-13J GRACE PASSARELLA
JT #2

HEARING - OBJECTION TO
CLAIM OF CHASE BANK USA, N.A.
11-26-08 [[34](#)]

Tentative Ruling: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The objection to claim no. 11 on the court's claims register, filed by Chase Bank USA, N.A., ("Claim") is sustained in part and overruled without prejudice in part. The objection is sustained as to the unsecured portion of the Claim (\$1,730.84) and overruled without prejudice as to the secured portion of the Claim (\$39.80). Accordingly, the Claim is disallowed except as a secured claim in the amount of \$39.80.

Debtor alleges without dispute that her personal liability on the debt underlying the Claim was discharged in bankruptcy case no. 03-26117-C-7 on August 28, 2003. However, that does not necessarily eliminate the secured claim. Johnson v. Home State Bank, 501 U.S. 78, 111 S.Ct. 2150, 115 L.Ed.2d 66 (1991).

The court will issue a minute order.

119. [08-35746](#)-B-13J JAMES BONELLI
IRS #1

HEARING - OBJECTION TO
CONFIRMATION OF CHAPTER 13
PLAN BY THE I.R.S.
12-10-08 [[14](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

Creditor Internal Revenue Services' objection is sustained, for the reasons stated in the creditor's opposition. Confirmation of the plan filed October 30, 2008 is denied.

The court will issue a minute order.

120. [08-34948](#)-B-13J RONALD/LESLIE ALLEN
ND #1

CONT. HEARING - OBJECTION TO
CONFIRMATION OF CHAPTER 13
PLAN BY MORGAN STANLEY CREDIT
11-24-08 [[20](#)]

CONT. FROM 12-16-08

Tentative Ruling: This matter continued from December 16, 2008 without a briefing schedule. Nothing further has been filed in this matter. The creditor's objection is governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition and due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The attached motion to value the collateral of Morgan Stanley Credit ("MSC") is deemed withdrawn as a debtors filed a subsequent motion to value the collateral of MSC on December 9, 2008. MSC's objection that the plan fails to provide for MSC's arrearage claim is overruled because the debtors' unopposed motion to value MSC's collateral has been granted elsewhere on this calendar.

The court will issue a minute order.

121. [08-34948](#)-B-13J RONALD/LESLIE ALLEN
ADS #1

HEARING - MOTION
TO VALUE COLLATERAL OF
MORGAN STANLEY CREDIT CORP.
12-9-08 [[23](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Morgan Stanley Credit Corp.'s collateral securing its second deed of trust, real property located at 6910 Brookcrest Way, Citrus Heights, CA 95621 (the "Property"), had a value of \$185,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Citimortgage, Inc. with a balance of approximately \$192,663.00. Thus, the value of the collateral available to Morgan Stanley Corp. on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

122. [08-36248](#)-B-13J RANDY TODD
MWB #1

HEARING - MOTION
TO VALUE COLLATERAL OF
CITIMORTGAGE, INC.
11-19-08 [[11](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Citimortgage's collateral securing its second deed of trust, real property located at 6004 Oakbridge Court, Citrus Heights, California (the "Property"), had a value of \$275,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Citimortgage with a balance of approximately \$359,366.00. Thus, the value of the collateral available to Citimortgage on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

123. [08-30549](#)-B-13J MARYANN BRUNNER
MOH #1

HEARING - DEBTOR'S
MOTION TO VALUE COLLATERAL
OF CITIMORTGAGE
12-11-08 [[27](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Citimortgage's collateral securing its second deed of trust, real property located at 14031 Drexel Drive, Magalia, California (the "Property"), had a value of \$195,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Citimortgage with a balance of approximately \$208,447.49. Thus, the value of the collateral available to Citimortgage on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

124. [08-30849](#)-B-13J HAROLD SHUKER
GG #1

HEARING - MOTION TO
APPROVE DEBTOR'S AMENDED PLAN
11-24-08 [[41](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The motion is denied without prejudice.

The court has an independent duty to determine whether the plan satisfies the requirements for confirmation.

The debtor has not carries his burden of showing compliance with 11 U.S.C. § 1325(a)(5) and (a)(6). The plan provides for Chrysler Financial's ("DCFS") claim in the amount of \$20,485.00. On December 2, 2008, the court approved a stipulation ("Stipulation") resolving an evidentiary hearing in which the parties agreed to fix DCFS' secured claim in the amount of \$23,000.00 (Dkt. 51). The court's approval order specifically states that "this order does not constitute a plan modification." The plan fails to provide for the full secured claim of DCFS as established in the Stipulation. In addition, the debtor has not shown that the plan is feasible with DCFS' claim fixed in the amount of \$23,000.00.

The court will issue a minute order.

125. [08-29950](#)-B-13J ROBERT/TERESA JACOBS
MOH #1

HEARING - DEBTORS'
MOTION TO VALUE COLLATERAL OF
BANK OF AMERICA, N.A.
12-9-08 [[24](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Bank of America's collateral securing its second deed of trust, real property located at 608 Manzanita Way, Yuba City, California, had a value of \$238,000.00 on the date of the petition. The property is encumbered by a first deed of trust held by Bank of America with a balance of approximately \$304,621.00. Thus, the value of the collateral available to Bank of America on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

126. [08-36251](#)-B-13J MARCIA MEDINA
MET #1

HEARING - MOTION TO
VALUE COLLATERAL OF WELLS
FARGO AUTO FINANCE
12-2-08 [[13](#)]

Tentative Ruling: Neither the respondent within the time for opposition nor the movant within the time for reply has filed a separate statement identifying each disputed material factual issue relating to the motion. Accordingly, both movant and respondent have consented to the resolution of the motion and all disputed material factual issues pursuant to FRCivP 43(e). LBR 9014-1(f)(1)(ii) and (iii).

Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The motion is denied without prejudice.

The debtor asserts that the value of the collateral as of the petition date was \$8,870.00 based on the debtor's declaration and a KBB private party valuation of the vehicle in "excellent" condition, but the debtor has failed to provide any evidence of the relevant value - retail value. 11 U.S.C. § 506(a)(2). Creditor Wells Fargo Auto Finance ("Wells") asserts that the value of the Collateral as of the petition date was \$12,435.00 and supports this assertion with a Kelley Blue Book retail value of the Collateral.

The court makes no finding as to an appropriate value of the Collateral as of the date of the petition.

The court will issue a minute order.

127. [08-27052](#)-B-13J DANNIEL/RONAVIV GARCIA
FF #2

CONT. HEARING - MOTION
TO CONFIRM CHAPTER 13 PLAN
9-16-08 [[36](#)]

CONT. FROM 11-12-08

Tentative Ruling: This matter continued from November 12, 2008 without a briefing schedule. Nothing further has been filed in this matter. Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition, and the motion to confirm the plan filed June 13, 2008 is denied. The court construes the trustee's request for a conditional dismissal order as a countermotion filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In the absence of

opposition, the countermotion will be conditionally denied, the conditions being that on or before January 27, 2009, the debtors file a new plan a motion to confirm the new plan and a motion to value GMAC Mortgage's collateral, properly serve the new plan and the motions and set the motions for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

128. [07-30653](#)-B-13J WILLIAM/TONYA HINES
MET #2

HEARING - OBJECTION
TO ALLOWANCE OF CLAIM OF
COMMERCIAL TRADE BUREAU,
ASSIGNEE/AGENT OF VALLEY
YELLOW PAGES
11-20-08 [[58](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The objection is overruled without prejudice.

The objection is not supported by sufficient evidence, as required by LBR 9014-1(d)(6). Accordingly, debtors have failed to rebut the prima facie validity and amount of the subject proof of claim.

The court will issue a minute order.

129. [08-34653](#)-B-13J RYAN/DEBORAH LOGAN
ADR #1

HEARING - DEBTORS'
MOTION FOR ORDER VALUING
COLLATERAL OF CITIBANK
12-5-08 [[18](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This motion is denied without prejudice. The debtors failed to serve the motion, its supporting papers, and notice of the continued hearing on Citibank in the manner required by Fed. R. Bankr. P. 7004. See Beneficial Cal., Inc. v. Villar (In re Villar), 317 B.R. 88, 93 (9th Cir. B.A.P. 2004).

The court will issue a minute order.

130. [08-34055](#)-B-13J PAMELA MCGAUGHY

HEARING - MOTION TO
CONFIRM CHAPTER 13 PLAN
11-18-08 [[25](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition, and the motion to confirm the plan filed November 14, 2008 is denied. The court construes the trustee's request for a conditional dismissal order as a countermotion filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In the absence of opposition, the countermotion will be conditionally denied, the conditions being that on or before January 27, 2009 the debtor files a new plan and a motion to confirm the new plan, properly serves the new plan and the motion and sets the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

131. [08-32456](#)-B-13J LORI BULLIS
HAW #1

HEARING - MOTION TO
CONFIRM AMENDED CHAPTER 13
PLAN OF REORGANIZATION
11-12-08 [[22](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is continued to February 24, 2009 at 9:30 a.m. because debtor failed to include a service list with the certificate of service. On or before January 16, 2009, the debtor shall serve the plan, the motion, its supporting papers, and notice of the continued hearing on all parties in interest who are not listed on page two of the certificate of service (Dkt. 30 at 2), and shall file proof of such service with the court within three court days thereafter. If the debtor fails to do any of the foregoing the motion will be denied without prejudice for improper service.

The court will issue a minute order.

132. [08-32556](#)-B-13J MARY WILLIAMS
MWB #1

CONT. HEARING - MOTION
FOR ORDER CONFIRMING FIRST
AMENDED CHAPTER 13 PLAN
9-24-08 [[13](#)]

CONT. FROM 11-12-08

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objection is overruled. The trustee's request for a conditional dismissal order is denied. Creditor Midland Mortgage's objection is sustained. Creditor Midland Mortgage's request for attorney's fees and costs is denied. The motion to confirm the plan filed September 24, 2008 is denied.

The trustee's objection that the plan's commitment period exceeds the permissible limit imposed by 11 U.S.C. § 1325(b)(4) is overruled. The trustee's objection is based, in part, on Midland Mortgage's arrearage claim amount of \$10,051.53, which amount has subsequently been reduced to \$7,906.46 through an amended claim and further reduced to \$7,556.46 elsewhere on this calendar.

Midland Mortgage's objection that the plan fails to comply with 11 U.S.C. § 1325(a)(5)(B)(iii)(I) is sustained. The plan proposes to pay Midland Mortgage \$0.00 monthly until attorney's fees are paid and then \$190.00 per month thereafter. Such an arrangement fails to provide Midland Mortgage with payments in equal monthly amounts.

Midland Mortgage's request for attorney's fees and costs is denied. Creditor has failed to show that it is legally entitled to any such fees and costs.

Any future plan(s) filed by debtor shall "separately append" each addition and deletion to the plan, meaning that each addition or deletion shall be attached at the end of the plan as an appendix, not inserted in the middle of the plan, and each addition or deletion shall be numbered consecutively, starting with "7.02." See G.O. 05-03, ¶ 2(b) and plan form ¶ 7.01. Failure to propose additions and/or deletions in that matter is grounds for denial of confirmation under 11 U.S.C. § 1325(a)(1).

The court will issue a minute order.

133. [08-32556](#)-B-13J MARY WILLIAMS
MWB #2

HEARING - MOTION FOR
ORDER PARTIALLY DISALLOWING
CLAIM BY MIDLAND MORTGAGE
COMPANY
11-3-08 [[28](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The objection to claim no. 2 on the court's claims register, filed by Midland Mortgage Company ("Claim"), is sustained in part. The amount of \$350.00 of the Claim is disallowed, and the Claim is allowed as a secured claim in the amount of \$32,991.60, with pre-petition arrearages of \$7,556.46. Except as so ordered, the objection is overruled.

The debtor questions a portion of the Claim in the amount of \$2,720.07, which amount is labeled as a "corporate advance" by claimant Midland Mortgage Company ("Midland"). Debtor asserts that such amount should be disallowed because it represents trustee's and/or attorney's fees, which sum exceeds the statutory limit of \$300.00 imposed by Cal. Civ. Code § 2924c(c) and (d). In response, Midland asserts that only \$650.00 of the \$2,720.07 constitute trustee's fees and/or attorney's fees within the meaning of Cal. Civ. Code § 2924c(d). Midland argues that section 2924c(d) does not impose a statutory limit of \$300.00 but rather only creates a presumption that an amount of \$300.00 or below is lawful. The court disagrees with Midland's assertion. The fees specified in Cal. Civ. Code § 2924c are statutory maximum fees for ordinary services in processing the foreclosure. See 10 Miller & Starr, California Real Estate § 10.191 (3d. Ed. 2008); see also *Caruso v. Great W. Sav.*, 229 Cal. App. 3d 667, 676 (1991). Although the statute does not limit the fees that can be charged for other services rendered to resolve disputes regarding the enforcement of debt and protection of the security where the note or deed of trust provides for the payment of such fees, Midland here has not asserted that the fees of \$650.00 involve anything other than fees for ordinary services in processing a foreclosure. Based on the foregoing, the fees of \$350.00 which exceed the amount allowed under Cal. Civ. Code § 2924c are disallowed.

The court will issue a minute order.

134. [08-35956](#)-B-13J ERIC/CAROLE SAMUELS
JPJ #1

HEARING - OBJECTION
TO CONFIRMATION OF PLAN
BY TRUSTEE
12-10-08 [[21](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition. Confirmation of the plan filed October 31, 2008 is denied. The court construes the trustee's request for a conditional dismissal order as a countermotion filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In the absence of opposition, the countermotion will be conditionally denied, the conditions being that on or before January 27, 2009, the debtors file a new plan and a motion to confirm the new plan, properly serve the new plan and the motion and set the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

135. [08-21158](#)-B-13J JOHN/CATHERINE DOCKTER HEARING - OBJECTION
JPJ #1 TO CLAIM NO. 15 OF
WORLD MARK BY WYNDHAM
11-10-08 [[34](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The objection to claim no. 15 on the court's claims register, filed by WorldMark by Wyndham, ("Claim") is sustained.

The Claim was not timely filed. The last date to file a claim was June 18, 2008 and to file a government claim was July 29, 2008. WorldMark by Wyndham filed the Claim for \$9,436.21 on September 29, 2008.

Therefore, pursuant to 11 U.S.C. § 502(b)(9) and Fed. R. Bankr. P. 3002(c), the Claim is disallowed except to the extent already paid by the trustee. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

The court will issue a minute order.

136. [07-30460](#)-B-13J REBEKAH GAMBLE HEARING - OBJECTION
JPJ #1 TO CLAIM NO. 12 OF
EMC MORTGAGE CORP.
11-10-08 [[24](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The objection to claim no. 12 on the court's claims register, filed by EMC Mortgage Corporation, ("Claim") is sustained.

The Claim was not timely filed. The last date to file a claim was April

2, 2008 and to file a government claim was June 1, 2008. EMC Mortgage Corporation filed the Claim for \$46,818.15 on September 9, 2008.

Therefore, pursuant to 11 U.S.C. § 502(b)(9) and Fed. R. Bankr. P. 3002(c), the Claim is disallowed except to the extent already paid by the trustee. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

The court will issue a minute order.

137. [08-32960](#)-B-13J RUBY SINUHE
JPJ #1

HEARING - TRUSTEE'S
OBJECTION TO DEBTOR'S
CLAIM OF EXEMPTION
11-14-08 [[22](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The trustee's objection to debtor's claim of exemption under Cal. Code Civ. P. § 703.140(b)(1) is overruled as moot. On November 24, 2008, debtor filed an amended Schedule C. The filing of the amended Schedule C constitutes a withdrawal of the claim of exemption to which the trustee's objection is directed.

The court will issue a minute order.

138. [06-21661](#)-B-13J WILLIAM LYONS
SDB #1

HEARING - MOTION
TO MODIFY CHAPTER 13 PLAN
AFTER CONFIRMATION
11-24-08 [[29](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed November 24, 2008 is confirmed.

The court will issue a minute order.

139. [08-36062](#)-B-13J JAMES/JENNIFER FIGUEIRA
EJS #1

HEARING - MOTION
TO DETERMINE VALUE OF COLLATERAL
OF CITIFINANCIAL SERVICES, INC.
11-14-08 [9]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Citifinancial Services, Inc.'s collateral securing its second deed of trust, real property located at 705 Catalina Circle, Suisun City, CA 94585 (the "Property"), had a value of \$220,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by American Home Mortgage with a balance of approximately \$243,441.00. Thus, the value of the collateral available to Citifinancial Services, Inc. on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

140. [08-32265](#)-B-13J MARK/KATHRYN MILLER
FEC #1

HEARING - MOTION TO
VALUE 2001 VOLKSWAGEN BEETLE
AUTOMOBILE ENCUMBERED BY
SECURITY INTEREST IN FAVOR OF
SIERRA CENTRAL CREDIT UNION
11-24-08 [35]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Sierra Central Credit Union's collateral, a 2001 Volkswagen Beetle, had a value of \$9,680.00 on the date of the petition. Thus, \$9,680.00 of the creditor's claim is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

141. [08-32265](#)-B-13J MARK/KATHRYN MILLER
FEC #2

HEARING - MOTION TO
VALUE DEBTORS' RESIDENCE
LOCATED AT 17200 MARINNAS WAY,
COTTONWOOD, CA 96022 ENCUMBERED
BY SECURITY INTEREST IN FAVOR
OF CHASE HOME FINANCE, LLC
11-25-08 [40]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

This matter is continued to a final evidentiary hearing on February 4, 2009 at 1:30 p.m. before the Honorable Thomas C. Holman in courtroom 33 to determine the value of the real property located at 17200 Marianas Way, Cottonwood, California 96022, on the date of the filing of the petition.

On or before January 28, 2009, each party shall serve on the other party all documentary evidence the party intends to present at the hearing and a witness list (which includes a general summary of the testimony of each designated witness). The parties shall also lodge on January 28, 2009, a judge's copy of all materials. The parties shall lodge and serve these documents regardless of whether they have filed them in the past with this court, and shall designate the documents as "Exhibits for Evidentiary Hearing on Mark David Miller and Kathryn Elizabeth Miller's Motion to Value the Collateral of Chase Home Finance, LLC." The judge's copies shall be submitted in a three-ring binder, tabbed as necessary. The hearing exhibits shall be pre-marked, with the creditor enumerating its exhibits as "1, 2, 3...", and debtor enumerating his exhibits "A, B, C...."

The court will issue a minute order.

142. [08-32265](#)-B-13J MARK/KATHRYN MILLER
FEC #3

HEARING - MOTION
TO CONFIRM DEBTORS'
CHAPTER 13 PLAN
11-24-08 [27]

Disposition Without Oral Argument: The motion is continued to February 10, 2009 at 9:30 a.m. to be heard after the resolution of debtors' motion to value the collateral of Chase Home Finance, which has been scheduled for an evidentiary hearing elsewhere on this calendar. Confirmation of the plan depends on the success of the motion to value collateral.

The court will issue a minute order.

143. [08-24066](#)-B-13J MICHELLE CERINI
ESJ #3

HEARING - MOTION
TO VALUE COLLATERAL OF
FASLO SOLUTIONS
11-21-08 [[41](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Faslo Solutions' collateral securing its second deed of trust, real property located at 2801 Kroy Way, Sacramento, CA 95817 (the "Property"), had a value of \$250,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Wilshire Credit Corporation with a balance of approximately \$275,298.00. Thus, the value of the collateral available to Faslo Solutions on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

144. [08-34566](#)-B-13J WILLIAM/DIANA GREEN
ADS #1

HEARING - MOTION TO
VALUE COLLATERAL OF WELLS
FARGO BANK, N.A.
12-1-08 [[18](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Wells Fargo Bank's collateral securing its second deed of trust, real property located at 256 Somerville Drive, Vacaville, CA 95687 (the "Property"), had a value of \$285,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Countrywide Home Loans with a balance of approximately \$371,981.00. Thus, the value of the collateral available to Wells Fargo Bank on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

145. [08-35466](#)-B-13J GREGORY/SHERRY WIESE
JT #1

HEARING - MOTION TO
VALUE COLLATERAL OF
OCWEN LOAN SERVICING
12-2-08 [[14](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Ocwen Loan Servicing's collateral securing its second deed of trust, real property located at 574 Benton Drive, Yuba City, CA 95991 (the "Property"), had a value of \$142,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Indymac Bank with a balance of approximately \$216,000.00. Thus, the value of the collateral available to Ocwen Loan Servicing on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

146. [08-28167](#)-B-13J ERROL/MELANI LAYTON
MET #3

CONT. HEARING - MOTION
TO CONFIRM PLAN
9-22-08 [[32](#)]

CONT. FROM 10-28-08

Tentative Ruling: This matter continued from October 28, 2008 without a briefing schedule. Nothing further has been filed in this matter. Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may request a more explanatory Disposition After Oral Argument at the hearing.

The trustee's objection 1 is overruled, and the trustee's objections 2-3 are sustained, for the reasons stated in the chapter 13 trustee's opposition. The motion to confirm the plan filed September 22, 2008 is denied. The court construes the trustee's request for a conditional dismissal order as a countermotion filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In the absence of opposition, the countermotion will be conditionally denied, the conditions being that on or before January 27, 2009 the debtors file a new plan and a motion to confirm the new plan, properly serve the new plan and the motion and set the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

147. [08-28167](#)-B-13J ERROL/MELANI LAYTON
MET #4

HEARING - OBJECTION
TO ALLOWANCE OF CLAIM OF
CHASE HOME FINANCE, LLC
11-26-08 [[54](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The objection to claim no. 1 on the court's claims register, filed by Chase Home Finance, LLC, ("Claim") is sustained in part. The amount of \$15,407.25 is disallowed from the Claim, except to the extent already paid by the trustee. The Claim is allowed as a secured claim in the amount of \$417,585.45, with arrearages of \$18,186.75.

Debtors allege without dispute that the amount of \$15,407.25 should be disallowed from the arrearage portion of the Claim. In particular, debtors assert that the alleged delinquency of \$2,806.38 was timely paid by the debtors to claimant and that claimant advanced only \$18,186.75 in property taxes on behalf of debtors, not \$30,533.54. By failing to respond to the objection, the creditor has failed to carry its burden to prove the Claim.

The court will issue a minute order.

148. [08-34567](#)-B-13J MONIQUE/MURRAY KREHBIEL
JLB #2

HEARING - MOTION OF
DEBTOR TO MODIFY CHAPTER 13
PRIOR TO CONFIRMATION
11-25-08 [[24](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objections 2 and 3 are overruled, and the trustee's objections 1 and 4 are sustained, for the reasons stated in the chapter 13 trustee's opposition. The motion to confirm the plan filed November 25, 2008 is denied. The court construes the trustee's request for a conditional dismissal order as a countermotion filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In the absence of opposition, the countermotion will be conditionally denied, the conditions being that on or before January 27, 2009 the debtors file a new plan and a motion to confirm the new plan, properly serve the new plan and the motion and set the motion for hearing on the next available chapter 13 calendar that provides proper notice.

As to trustee's objections 1 and 4, the court notes that debtors have provided insufficient evidence to establish that they have become current under the plan. In addition, the Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys (Dkt. 18), filed November 6, 2008, is unsigned by debtors' counsel.

The court will issue a minute order.

149. [08-20268](#)-B-13J STEPHEN OUELLETTE
WW #1

HEARING - MOTION
TO CONFIRM FIRST MODIFIED
CHAPTER 13 PLAN
11-24-08 [[41](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed November 24, 2008 is confirmed.

The court will issue a minute order.

150. [08-29568](#)-B-13J DENNIS/REBECCA O'KEEFE
ADS #1

HEARING - MOTION
TO VALUE COLLATERAL OF
COUNTRYWIDE HOME LOANS, INC.
12-8-08 [[23](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Countrywide Home Loans' collateral securing its second deed of trust, real property located at 124 Kennison Court, Vallejo, CA 94589 (the "Property"), had a value of \$229,075.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Countrywide Home Loans with a balance of \$368,000.00. Thus, the value of the collateral available to Countrywide Home Loans on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second deed of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

151. [08-29568](#)-B-13J DENNIS/REBECCA O'KEEFE
ADS #2

HEARING - MOTION
TO VALUE COLLATERAL OF
CAPITAL ONE N.A.
12-8-08 [[27](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Capital One, N.A.'s collateral securing its third deed of trust, real property located at 124 Kennison Court, Vallejo, CA 94589 (the "Property"), had a value of \$229,075.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Countrywide Home Loans with a balance of \$368,000.00. Thus, the value of the collateral available to Capital One, N.A. on its third deed of trust is \$0.00. \$0.00 of creditor's claim secured by the third deed of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

152. [06-22469](#)-B-13J TRACY WADLEY
EJS #1

HEARING - MOTION FOR
ENTRY OF CHAPTER 13 DISCHARGE
12-3-08 [[34](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted. Pursuant to 11 U.S.C. § 1328(a), the court grants the debtor a discharge of all debts provided for by the plan or disallowed under 11 U.S.C. § 502 except any debt described in 11 U.S.C. § 1328(a)(1), (a)(2), (a)(3), or (a)(4).

Through this motion, debtor alleges without dispute that she is entitled to entry of her discharge pursuant to 11 U.S.C. § 1328(a). The court notes that the order approving final report and discharging the trustee was entered on July 23, 2008. (Dkt. 33). The entry of an order approving the final report signals to the court that it is appropriate both to discharge the debtor and close the estate because it has been fully administered. See In re Avery, 272 B.R. 718, 729 (Bankr. E.D. Cal. 2002). The court finds that debtor is entitled to a discharge under 11 U.S.C. § 1328(a).

The court will issue a minute order.

153. [08-35569](#)-B-13J RODNEY/MARY HUSTON
JPJ #1

HEARING - OBJECTION
TO CONFIRMATION OF PLAN
BY TRUSTEE
12-10-08 [[17](#)]

Tentative Ruling: The trustee's objection and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition and due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's second objection is overruled because the trustee has failed to show that the allegedly improper vehicle deduction is impermissible under 11 U.S.C. § 707(b)(2)(A)(iii). The trustee's first objection is sustained, for the reasons stated in the chapter 13 trustee's opposition, and confirmation of the plan filed October 27, 2008 is denied. The trustee's request for an order dismissing the case is conditionally denied, with the conditions being that on or before January 27, 2009 the debtors file a new plan and motion to confirm, properly serve the new plan and the motion, and set the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

154. [08-32571](#)-B-13J REYNALDO/FE DAYRIT
JPJ #1

HEARING - TRUSTEE'S
OBJECTION TO DEBTORS'
CLAIM OF EXEMPTION
11-14-08 [[28](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The trustee's objection to debtors' claims of exemption under Cal. Code Civ. P. § 703.140(b)(1) and (b)(5) is sustained and the claimed exemption is disallowed.

The court will issue a minute order.

155. [08-28172](#)-B-13J FRED/LUDVINA PHELPS
DEF #1

HEARING - MOTION
TO VALUE COLLATERAL OF
CITIFINANCIAL
11-24-08 [[17](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is denied without prejudice.

The motion contains several procedural defects. First, the debtors did not properly serve Citifinancial, the creditor whose collateral debtors seek to value, with the motion.

Second, the motion is not supported by sufficient evidence, as required by LBR 9014-1(d)(6).

The court will issue a minute order.

156. [08-28172](#)-B-13J FRED/LUDVINA PHELPS
DEF #2

HEARING - MOTION
TO CONFIRM INITIAL
CHAPTER 13 PLAN
12-4-08 [[22](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition, and the motion to confirm the plan filed June 23, 2008 is denied. The court construes the trustee's request for a conditional dismissal order as a countermotion filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In the absence of opposition, the countermotion will be conditionally denied, the conditions being that on or before January 29, 2009 the debtors file a new plan a motion to confirm the new plan and a motion to value Citifinancial's collateral, properly serve the new plan and the motions and set the motions for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

157. [08-35872](#)-B-13J ANN MORGAN
CYB #1

HEARING - MOTION FOR
CONFIRMATION OF DEBTOR'S
CHAPTER 13 PLAN
11-17-08 [[12](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

This matter is continued to February 24, 2009 at 9:30 a.m. because the certificate of service filed with this motion fails to indicate that the plan and the instant motion were served on any party in interest. On or before January 16, 2009, the debtor shall serve the plan, the motion, its supporting papers, and notice of the continued hearing on all parties in interest, and shall file proof of such service with the court within three court days thereafter. If the debtor fails to do any of the foregoing the motion will be denied without prejudice for improper service.

The court will issue a minute order.

158. [08-32174](#)-B-13J GLENN CHAPITAL
JPJ #1

CONT. HEARING - OBJECTION
TO CONFIRMATION OF PLAN
BY TRUSTEE
10-9-08 [[19](#)]

CONT. FROM 10-28-08

Tentative Ruling: This matter continued from October 28, 2008 without a briefing schedule. Nothing further has been filed in this matter. The trustee's objection and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may request a more explanatory Disposition After Oral Argument.

The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition. Confirmation of the plan filed August 28, 2008 is denied. The trustee's request for an order dismissing the case is conditionally denied, with the conditions being that on or before January 27, 2009 the debtor files a new plan and a motion to confirm the new plan, properly serves the new plan and the motion and sets the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

159. [08-34776](#)-B-13J GARY LOWE
SDB #1

HEARING - DEBTOR'S
MOTION FOR ORDER VALUING
COLLATERAL OF WELLS FARGO
12-12-08 [[18](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Wells Fargo Bank's collateral securing its second deed of trust, real property located at 900 Cambridge Drive, # 900, Benicia, California (the "Property"), had a value of \$185,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Wells Fargo Bank with a balance of approximately \$220,245.00. Thus, the value of the collateral available to Wells Fargo Bank on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

160. [08-21577](#)-B-13J VICTORIA FORD
JPJ #2

HEARING - OBJECTION
TO ALLOWANCE OF CLAIM NO. 12
OF PACIFIC GAS AND ELECTRIC
11-10-08 [[39](#)]

Disposition Without Oral Argument: This objection is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The objection to claim no. 12 on the court's claims register, filed by Pacific Gas & Electric ("Claim"), is sustained. The Claim was not timely filed. The last date to file a claim was June 18, 2008, and to file a government claim was August 9, 2008. Pacific Gas & Electric filed the Claim for \$860.42 on July 1, 2008.

Therefore, pursuant to 11 U.S.C. § 502(b)(9) and Fed.R.Bankr.P. 3002(c), the Claim is disallowed except to the extent already paid by the trustee. See In re Osborne, 76 F.3d 306 (9th Cir. 1996); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9th Cir. 1999); Ledlin v. United States (In re Tomlan), 907 F.2d 114 (9th Cir. 1989); Zidell, Inc. v. Forsch (In re Coastal Alaska), 920 F.2d 1428, 1432-33 (9th Cir. 1990).

The court will issue a minute order.

161. [08-32577](#)-B-13J DERECK/DORSEY PARKS
KB #1

HEARING - MOTION
TO VALUE COLLATERAL OF
HSBC MORTGAGE SERVICES
11-17-08 [[26](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, HSBC Mortgage Services' collateral securing its second deed of trust, real property located at 2144 Stonybrook Court, Yuba City, California 95991 (the "Property"), had a value of \$244,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Countrywide Home Loans with a balance of approximately \$292,253.98. Thus, the value of the collateral available to HSBC Mortgage Services on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

162. [08-32577](#)-B-13J DERECK/DORSEY PARKS
KB #1

HEARING - MOTION
TO CONFIRM FIRST AMENDED
CHAPTER 13 PLAN
11-17-08 [[23](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may request a more explanatory ruling at the hearing.

The trustee's objections are sustained, for the reasons stated in the chapter 13 trustee's opposition, and the motion to confirm the plan filed November 17, 2008 is denied. The court construes the trustee's request for a conditional dismissal order as a countermotion filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In the absence of opposition, the countermotion will be conditionally denied, the conditions being that on or before January 27, 2009 the debtors file a new plan and a motion to confirm the new plan, properly serve the new plan and the motion and set the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

163. [08-36577](#)-B-13J GRAHAM/LAURA SKINNER
JPJ #1

HEARING - OBJECTION
TO CONFIRMATION OF PLAN
BY TRUSTEE
12-18-08 [[13](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter. The objection is overruled as moot.

On December 29, 2008, the debtors filed an amended plan. The filing of the amended plan constitute a withdrawal of plan to which the trustee's objection is directed.

The court will issue a minute order.

164. [08-22778](#)-B-13J PHILLIP EVERITT AND
SS #2 MARIA MALMAY

HEARING - MOTION
TO MODIFY CHAPTER 13 PLAN
12-10-08 [[56](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument..

The trustee's objections are sustained, for the reasons stated in the chapter 13 trustee's opposition, and the motion to confirm the plan filed December 10, 2008 is denied.

The court will issue a minute order.

165. [08-34479](#)-B-13J RICHARD ABRUSCI
JPJ #2

HEARING - TRUSTEE'S
MOTION TO CONVERT CASE TO A
CHAPTER 7 PROCEEDING OR IN THE
ALTERNATIVE DISMISS CASE
11-24-08 [[25](#)]

Disposition Without Oral Argument: The motion is denied as moot because the bankruptcy case was dismissed pursuant to the debtor's motion and by order entered on December 19, 2008.

The court will issue a minute order.

166. [08-35979](#)-B-13J SHEREEN EMDE
SKI #1

HEARING - OBJECTION
TO CONFIRMATION OF PROPOSED
CHAPTER 13 PLAN BY DAIMLER-
CHRYSLER FINANCIAL SERVICES
AMERICAS LLC
11-17-08 [[12](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The attached motion to value Chrysler Financial's collateral is denied without prejudice. DaimlerChrysler Financial Services Americas, LLC ("DCFS") objection is sustained. Confirmation of the plan filed October 31, 2008 is denied.

The proposed treatment of DCFS' claim is based on an attached motion to value that was not served in compliance with G.O. 05-03, ¶ 3(b). As a result, the attached motion cannot be granted, and the plan fails to provide for the full amount of DCFS' secured claim.

The court will issue a minute order.

167. [07-29480](#)-B-13J MISTY RYAN
JT #3

HEARING - MOTION TO
MODIFY CHAPTER 13 PLAN
AFTER CONFIRMATION
11-17-08 [[68](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument..

The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition. Creditor Guild Mortgage Company's objection is sustained, for the reasons stated in the creditor's opposition. Creditor Guild Mortgage Company's request for attorney's fees and costs is denied. Creditor Guild Mortgage Company's request for dismissal of the instant case is denied. The motion to confirm the plan filed November 17, 2008 is denied.

The court will issue a minute order

168. [08-32683](#)-B-13J RODNYE SHRINER
MET #1

HEARING - MOTION
TO CONFIRM PLAN
11-19-08 [[28](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objections are sustained, for the reasons stated in the chapter 13 trustee's opposition, and the motion to confirm the plan filed November 19, 2008 is denied. The court construes the trustee's request for a conditional dismissal order as a countermotion filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In the absence of opposition, the countermotion will be conditionally denied, the conditions being that on or before January 29, 2009 the debtor files a new plan and a motion to confirm the new plan, properly serves the new plan and the motion and sets the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

169. [08-32683](#)-B-13J RODNYE SHRINER
MET #2

HEARING - MOTION FOR
ORDER VALUING COLLATERAL
OF WACHOVIA MORTGAGE
11-18-08 [24]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Wachovia Mortgage's collateral securing its second deed of trust, real property located at 161 Sheffield Drive, Vacaville, California (the "Property"), had a value of \$250,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Wachovia Mortgage with a balance of \$304,334.00. Thus, the value of the collateral available to Wachovia Mortgage on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second deed of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

170. [08-33283](#)-B-13J VYACHESLAV/MARINA
ADS #1 VASILYEVA

HEARING - MOTION
TO VALUE COLLATERAL OF
SPECIALIZED LOAN SERVICING
12-8-08 [18]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Specialized Loan Servicing's collateral securing its second deed of trust, real property located at 2113 Horseshore Glen Circle, Folsom, California 95630 (the "Property"), had a value of \$345,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Countrywide Home Loans with a balance of \$369,275.00. Thus, the value of the collateral available to Specialized Loan Servicing, LLC on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second deed of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

171. [08-35684](#)-B-13J SIMEONA MCMAHON
RK #1

HEARING - OBJECTION TO
CONFIRMATION OF DEBTOR'S
CHAPTER 13 PLAN BY FIRST
FEDERAL BANK OF CALIFORNIA
12-10-08 [[14](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

Creditor First Federal Bank of California's objections are sustained in part and overruled in part. Confirmation of the plan filed October 29, 2008 is denied.

First Federal Bank of California's objections that the plan fails to provide any interest on creditor's arrearage claim and fails to provide for creditor's arrearage claim in full are sustained, for the reasons stated in the creditor's opposition.

First Federal Bank of California's objection that the plan was not filed in good faith is overruled.

The court will issue a minute order.

172. [08-30286](#)-B-13J LETTYE LEWIS
WW #1

HEARING - MOTION
TO CONFIRM FIRST AMENDED
CHAPTER 13 PLAN
11-24-08 [[34](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted, and the amended plan filed November 24, 2008 is confirmed.

Counsel for the debtor shall submit an order using EDC form 3-081-03 (Rev. 7/1/03) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

173. [08-30286](#)-B-13J LETTYE LEWIS
WW #2

HEARING - MOTION
TO VALUE THE COLLATERAL
OF RITA AKEN
11-24-08 [[38](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Rita Aken's collateral securing her second deed of trust, real property located at 1229 Nogales Street, Sacramento, California (the "Property"), had a value of \$141,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Countrywide Home Loans with a balance of approximately \$141,000.00. Thus, the value of the collateral available to Rita Aken on her second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

174. [08-29287](#)-B-13J GUADALUPE/ELDA VILLALPANDO
MAA #3

HEARING - MOTION
TO CONFIRM FIRST AMENDED
CHAPTER 13 PLAN
11-13-08 [[67](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted, and the amended plan filed November 13, 2008 is confirmed.

Counsel for the debtors shall submit an order using EDC form 3-081-03 (Rev. 7/1/03) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

175. [08-35187](#)-B-13J MALIK/MONICA NUMAN
SS #1

HEARING - MOTION
TO VALUE COLLATERAL OF
NATIONAL CITY BANK
11-25-08 [[19](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, National City Bank's collateral securing its second deed of trust, real property located at 3294 Port Pacific Lane, Elk Grove, California (the "Property"), had a value of \$583,500.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Countrywide Home Loans with a balance of approximately \$651,000.00. Thus, the value of the collateral available to National City Bank on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

176. [08-29892](#)-B-13J DAVID/LISA KOOPMEINERS
PLG #3

HEARING - DEBTORS' MOTION
FOR CONFIRMATION OF SECOND
AMENDED CHAPTER 13 PLAN
11-25-08 [[48](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition, and the motion to confirm the plan filed November 25, 2008 is denied. The court construes the trustee's request for a conditional dismissal order as a countermotion filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In the absence of opposition, the countermotion will be conditionally denied, the conditions being that on or before January 27, 2009 the debtors file a new plan and a motion to confirm the new plan, properly serve the new plan and the motion and set the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

177. [08-35892](#)-B-13J MANUEL/COURTNEY PERALTA
JPJ #1

HEARING - OBJECTION
TO CONFIRMATION OF PLAN
BY TRUSTEE
12-10-08 [[14](#)]

Tentative Ruling: The trustee's objection and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition and due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may request a more explanatory ruling at the hearing.

The trustee's first objection is overruled because the trustee has failed

180. [08-20793](#)-B-13J ACE/TERESITA LOZANO
WW #2

HEARING - OBJECTION
TO CLAIM OF CHASE BANK AND THE
TRANSFER OF CLAIM NO. 9 TO
ECAST SETTLEMENT CORPORATION
11-12-08 [43]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

On January 7, 2009, the debtors and creditor eCast Settlement Corporation filed a stipulation in which the parties agreed to continue this matter to the court's February 10, 2009 calendar at 9:30 a.m. Pursuant to LBR 9014-1(j), the court continues this matter to February 10, 2009 at 9:30 a.m.

The court will issue a minute order.

181. [08-20793](#)-B-13J ACE/TERESITA LOZANO
WW #3

HEARING - OBJECTION
TO CLAIM NO. 10 FILED
BY CHASE BANK
11-13-08 [48]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The objection is overruled as moot.

On December 1, 2008, creditor Chase Bank USA, N.A. filed a notice of withdrawal of claim no. 10 on the court's claims register. The filing of the notice withdraws the claim to which the debtors' objection is directed.

The court will issue a minute order.

182. [08-24894](#)-B-13J BRIAN/KIMBERLY WATKINS
CLH #1

HEARING - DEBTORS'
MOTION TO APPROVE FIRST
MODIFIED PLAN
11-18-08 [28]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The objection is overruled as moot.

On January 9, 2009, the debtors filed a withdrawal of the instant motion.

The court will issue a minute order.

183. [08-37394](#)-B-13J PAMELA OWENS
JT #1

HEARING - MOTION TO
VALUE COLLATERAL LITTON
LOAN SERVICING
12-15-08 [[13](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Litton Loan Servicing's collateral securing its second deed of trust, real property located at 9271 Medallion Way, Sacramento, California 95826 (the "Property"), had a value of \$223,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Litton Loan Servicing with a balance of approximately \$330,000.00. Thus, the value of the collateral available to Litton Loan Servicing on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

184. [07-22496](#)-B-13J LORETTA DRAPER
MOH #6

HEARING - DEBTOR'S
MOTION TO CONFIRM FIFTH
AMENDED CHAPTER 13 PLAN
11-17-08 [[115](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objections are sustained, for the reasons stated in the chapter 13 trustee's opposition, and the motion to confirm the plan filed November 17, 2008 is denied. The court construes the trustee's request for dismissal of the instant case as a countermotion filed under LBR 9014-1(f)(2). As to that request, opposition may be presented at the hearing.

The court will issue a minute order.

185. [08-23497](#)-B-13J GALE OGAWA
JT #1

HEARING - MOTION
TO CONFIRM CHAPTER 13 PLAN
11-21-08 [[64](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is granted, and the plan filed September 12, 2008 is confirmed.

Counsel for the debtor shall submit an order using EDC form 3-081-03 (Rev. 7/1/03) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

186. [08-23497](#)-B-13J GALE OGAWA
JT #2

HEARING - MOTION
TO VALUE COLLATERAL OF
COUNTRYWIDE HOME LOANS
11-21-08 [[59](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Countrywide Home Loans' collateral securing its second deed of trust, real property located at 3224 Sweet Maple Way, Sacramento, California 95833 (the "Property"), had a value of \$286,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Countrywide Home Loans with a balance of approximately \$345,253.00. Thus, the value of the collateral available to Countrywide Home Loans on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

187. [08-29397](#)-B-13J STANLEY/MARY KOSOSKI
CYB #1

HEARING - MOTION
TO VALUE COLLATERAL OF
BANK OF AMERICA
12-11-08 [[29](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Bank of America's collateral securing its second deed of trust, real property located at 5826 Pebble Creek Drive, Rocklin, California 95765 (the "Property"), had a value of \$335,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Bank of America with a balance of approximately \$364,252.00. Thus, the value of the collateral available to Bank of America on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

188. [08-34197](#)-B-13J JAN/DEBORAH BIZIEWSKI
SAC #1

CONT. HEARING - MOTION
TO VALUE COLLATERAL OF CHASE
10-21-08 [[20](#)]

CONT. FROM 11-25-08

Disposition Without Oral Argument: This matter continued from November 25, 2008 for service on creditor Chase Home Finance on or before December 16, 2008. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

The motion is denied without prejudice.

Following the hearing on November 25, 2008, the court issued a minute order which directed debtors to perform several tasks ("the Order"). (Dkt. 26). Debtors failed to comply with the court's directives in the Order. Accordingly, the motion is denied without prejudice for improper service.

The court will issue a minute order.

189. [08-34197](#)-B-13J JAN/DEBORA BIZIEWSKI
SAC #2

HEARING - MOTION
TO VALUE COLLATERAL OF CHASE
12-8-08 [[28](#)]

Disposition Without Oral Argument: This motion is unopposed. Due to the size of this calendar (227 matters), the court issues the following abbreviated ruling.

In the absence of opposition, the motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. For the purposes of this motion, Chase's collateral securing its second deed of trust, real property located at 11115 Oberun River Court, Rancho Cordova, California 95670 (the "Property"), had a value of \$293,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Chase with a balance of approximately \$325,000.00. Thus, the value of the collateral available to Chase on its second deed of trust is \$0.00. \$0.00 of creditor's claim secured by the second of trust is a secured claim, and the balance of its claim is an unsecured claim.

The court will issue a minute order.

190. [08-36604](#)-B-13J JONATHAN BOGARD HEARING - MOTION FOR
TJS #1 RELIEF FROM AUTOMATIC STAY
JP MORGAN CHASE BANK, N.A., VS. 12-22-08 [[16](#)]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

191. [08-37013](#)-B-13J LELAND MANSUETTI HEARING - MOTION FOR
TJS #1 RELIEF FROM AUTOMATIC STAY
AMERICA'S SERVICING CO., VS. 12-29-08 [[19](#)]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. However, because debtor is proposing to treat movant's claim as a class 3 surrender claim and because of the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The motion is denied as moot.

Debtor's plan, confirmed by order entered on January 9, 2009, provides for this claim in Class 3 (surrender). Pursuant to the Section 3.14 of the confirmed plan, "entry of the confirmation order shall constitute an order modifying the automatic stay to allow the holder of a class 3 secured claim to repossess, receive, take possession of, foreclose upon, and exercise its rights and judicial and nonjudicial remedies against its collateral." The movant already has the relief it seeks by this motion.

The court will issue a minute order.

192. [08-29414](#)-B-13J EDDIE/RENEE MEJORADO HEARING - OBJECTIONS
TO PROPOSED SECOND AMENDED
CHAPTER 13 PLAN AND CONFIRMATION
THEREOF BY COUNTRYWIDE HOME
LOANS SERVICING, LP
12-19-08 [[65](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The objection is overruled without prejudice.

The procedure for filing a stand-alone objection to confirmation is unavailable to the creditor under ¶ 8(a) of G.O. 05-03, the procedure by which debtors must proceed to confirmation in this case.

In this instance, however, the court will consider the merits of the creditor's objection as opposition to the debtors' motion to confirm, and will address them in its resolution of the motion to confirm elsewhere on this calendar.

The court will issue a minute order.

193. [08-29414](#)-B-13J EDDIE/RENEE MEJORADO
ADR #2
- HEARING - TRUSTEE'S
COUNTER-MOTION TO CONDITIONALLY
DISMISS CASE
12-29-08 [[74](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is dropped from this calendar, and its merits will be addressed with debtors' motion to confirm elsewhere on the calendar.

194. [08-36215](#)-B-13J W SCOTT/LEAH SEAVERS
JPJ #1
- HEARING - TRUSTEE'S
OBJECTION TO CONFIRMATION OF
THE CHAPTER 13 PLAN AND
CONDITIONAL MOTION TO
DISMISS CASE
12-23-08 [[16](#)]

Disposition Without Oral Argument: The objection is continued to February 10, 2009 at 9:30 a.m. to be heard with the debtors' motions to value the collateral of the Bank of the West and National City. Confirmation of the plan depends on the success of the motions to value collateral.

The court will issue a minute order.

195. [08-36118](#)-B-13J DELORES GARCIA
JPJ #1
- HEARING - TRUSTEE'S
OBJECTION TO CONFIRMATION OF
THE CHAPTER 13 PLAN AND
CONDITIONAL MOTION TO
DISMISS CASE
12-23-08 [[20](#)]

Tentative Ruling: The trustee's objection and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition and due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objections are sustained, for the reasons stated in the chapter 13 trustee's opposition. Confirmation of the plan filed November 4, 2008 is denied. The trustee's request for an order dismissing the case is conditionally denied, with the conditions being that on or before January 27, 2009 the debtor files a new plan and a motion to confirm the new plan, properly serves the new plan and the motion and sets the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

196. [08-36019](#)-B-13J JUDD/GINA URBAN
JPJ #1

HEARING - TRUSTEE'S
OBJECTION TO CONFIRMATION OF
THE CHAPTER 13 PLAN AND
CONDITIONAL MOTION TO
DISMISS CASE
12-23-08 [[16](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The objection is overruled as moot.

On December 30, 2008, the debtors filed an amended plan and motion to confirm. The filing of the amended plan constitutes a withdrawal of the instant plan to which the trustee's objection is directed.

The court will issue a minute order.

197. [08-36019](#)-B-13J JUDD/GINA URBAN
KAT #1

HEARING - OBJECTION
TO CONFIRMATION OF CHAPTER 13
PLAN BY INDYMAC FEDERAL BANK
12-24-08 [[19](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The objection is overruled as moot.

On December 30, 2008, the debtors filed an amended plan and motion to confirm. The filing of the amended plan constitutes a withdrawal of the instant plan to which the creditor's objection is directed.

The court will issue a minute order.

198. [08-36020](#)-B-13J STEPHANIE HANSEN AND
JPJ #1 MARC LANE

HEARING - TRUSTEE'S
OBJECTION TO CONFIRMATION OF
THE CHAPTER 13 PLAN AND
CONDITIONAL MOTION TO
DISMISS CASE
12-23-08 [[18](#)]

Tentative Ruling: The trustee's objection and motion to dismiss are governed by the procedures of LBR 9014-1(f) (2). Opposition may be presented at the hearing. Subject to such opposition and due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The attached motion to value the collateral of Tahoe Loan Servicing, Inc. is denied without prejudice because debtors failed to file sufficient evidence in support of the motion. The attached motion to value Beneficial's collateral is treated as withdrawn because debtors filed a subsequent stand alone motion to value on December 29, 2008. The trustee's objections are sustained, for the reasons stated in the chapter 13 trustee's opposition. Confirmation of the plan filed November 3, 2008 is denied. The trustee's request for an order dismissing the case is conditionally denied, with the conditions being that on or before January 27, 2009 the debtors file a new plan and a motion to confirm the new plan, properly serve the new plan and the motion and set the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

199. [08-34321](#)-B-13J CLIFTON MATTHEWS

HEARING - MOTION
TO CONFIRM CHAPTER 13 PLAN
12-15-08 [[27](#)]

Tentative Ruling: Due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objections 1, 3, 4, 5, 6, 7, and 8 are sustained, for the reasons stated in the chapter 13 trustee's opposition. The trustee's objection 2 is overruled. The motion to confirm the plan filed November 5, 2008 is denied. The court construes the trustee's request for a conditional dismissal order as a countermotion filed under LBR 9014-1(f) (2). Opposition may be presented at the hearing. In the absence of opposition, the countermotion will be conditionally denied, the conditions being that on or before January 27, 2009 the debtor files a new plan and a motion to confirm the new plan, properly serves the new plan and the motion and sets the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

200. [08-34321](#)-B-13J CLIFTON MATTHEWS

HEARING - TRUSTEE'S
COUNTER-MOTION TO CONDITIONALLY
DISMISS CASE
12-22-08 [[28](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is dropped from this calendar, and its merits will be addressed with debtor's motion to confirm elsewhere on the calendar.

201. [08-36022](#)-B-13J APRIL GONSALEZ
JPJ #1

HEARING - TRUSTEE'S
OBJECTION TO CONFIRMATION OF
THE CHAPTER 13 PLAN AND
CONDITIONAL MOTION TO
DISMISS CASE
12-23-08 [[23](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

The objection is overruled as moot.

On December 12, 2008, the debtor filed an amended plan and motion to confirm. The filing of the amended plan constitutes a withdrawal of the instant plan to which the trustee's objection is directed.

The court will issue a minute order.

202. [08-36122](#)-B-13J PETER OVALLE, III
JPJ #1

HEARING - TRUSTEE'S
OBJECTION TO CONFIRMATION OF
THE CHAPTER 13 PLAN AND
CONDITIONAL MOTION TO
DISMISS CASE
12-23-08 [[18](#)]

Tentative Ruling: The trustee's objection and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The attached motions to avoid the judicial lien of HomeEq Servicing and to value the collateral of Sesloc Federal Credit Union are denied without prejudice. The trustee's objections are sustained, for the reasons stated in the chapter 13 trustee's opposition. Confirmation of the plan

filed November 19, 2008 is denied. The trustee's request for an order dismissing the case is conditionally denied, with the conditions being that on or before January 27, 2009 the debtor files a new plan and a motion to confirm the new plan, properly serves the new plan and the motion and sets the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The attached motions are denied without prejudice due to procedural defects. Attached motions to avoid liens pursuant to section 522(f) or motions to value collateral are permitted by Paragraph 3(b) of General Order 05-03. Pursuant to that paragraph, each attached motion is required to have been served with a separate notice of the motion. Here, debtor failed to file or serve a separate notice of either attached motion. Accordingly, the attached motions are procedurally improper.

The court will issue a minute order.

203. [08-36127](#)-B-13J LUCILLE BROWN
JPJ #1
HEARING - TRUSTEE'S
OBJECTION TO CONFIRMATION OF
THE CHAPTER 13 PLAN AND
CONDITIONAL MOTION TO
DISMISS CASE
12-23-08 [[22](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter. The objection is overruled as moot, and the dismissal request is denied.

On January 9, 2009, the debtor filed an amended plan. The filing of the amended plan constitute a withdrawal of the instant plan to which the trustee's objection is directed.

The court will issue a minute order.

204. [08-35128](#)-B-13J ALISA DOVE
BRL #1
REDWOOD MORTGAGE INVESTORS,
VIII, A CA LIMITED PARTNERSHIP, VS.
HEARING - MOTION FOR
ORDER TERMINATING AUTOMATIC
STAY OR REQUIRING ADEQUATE
PROTECTION
12-30-08 [[27](#)]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

205. [08-31034](#)-B-13J RENEE REITAS
SAC #3
HEARING - TRUSTEE'S
COUNTER-MOTION TO CONDITIONALLY
DISMISS CASE
12-29-08 [[52](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is dropped from this calendar, and its merits will be addressed with debtor's motion to confirm elsewhere on the calendar.

206. [08-31635](#)-B-13J RICHARD SANDERS
FF #2
HEARING - TRUSTEE'S
COUNTER-MOTION TO CONDITIONALLY
DISMISS CASE
12-22-08 [[43](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is dropped from this calendar, and its merits will be addressed with debtor's motion to confirm elsewhere on the calendar.

207. [08-36235](#)-B-13J JOSEPH/SHARON GRIFFIN
JPJ #1
HEARING - TRUSTEE'S
OBJECTION TO CONFIRMATION OF
THE CHAPTER 13 PLAN AND
CONDITIONAL MOTION TO
DISMISS CASE
12-23-08 [[23](#)]

Tentative Ruling: The trustee's objection and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition, and the motion to confirm the plan filed November 24, 2008 is denied. The trustee's request for an order dismissing the case is conditionally denied, with the conditions being that on or before January 27, 2009 the debtors file a new plan and a motion to confirm the new plan, properly serve the new plan and the motion and set the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

208. [08-33238](#)-B-13J ADRIANNE ROBINSON
EAT #1
CENTRAL MORTGAGE CO., VS.

HEARING - MOTION FOR
RELIEF FROM AUTOMATIC STAY
12-29-08 [[48](#)]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. However, because debtor is proposing to treat movant's claim as a class 3 surrender claim and because of the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The motion is granted in part. The automatic stay is modified pursuant to 11 U.S.C. § 362 (d)(1) in order to permit the movant to foreclose on the real property located at 324 Waterview Terrace, Vallejo, CA 94591 (APN 0079-522-040) ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 10-day period specified in Fed. R. Bankr. P. 4001(a)(3) is waived. Except as so ordered, the motion is denied.

Debtor's proposed plan provides for this claim in Class 3 (surrender).

The court will issue a minute order.

209. [08-36251](#)-B-13J MARCIA MEDINA

HEARING - OBJECTION
TO CONFIRMATION OF CHAPTER 13
PLAN AND TO THE MOTION TO
VALUE COLLATERAL BY
WELLS FARGO FINANCIAL
12-10-08 [[17](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is dropped from this calendar, and its merits will be addressed with debtor's motion to value elsewhere on the calendar.

210. [08-34055](#)-B-13J PAMELA MCGAUGHY

HEARING - TRUSTEE'S
COUNTER-MOTION TO CONDITIONALLY
DISMISS CASE
12-29-08 [[41](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is dropped from this calendar, and its merits will be addressed with debtor's motion to confirm elsewhere on the calendar.

211. [08-36756](#)-B-13J JOVA SANCHEZ

HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-22-08 [[16](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot. Considering the automatic extension provided in Fed. R. Bankr. P. 9006(a) and pursuant to 11 U.S.C. § 521(i), this case was automatically dismissed as of 12:01 a.m. on Tuesday, January 6, 2009. The debtor failed to timely file all of the documents required by 11 U.S.C. § 521(a)(1). No monetary sanctions are imposed.

The court will issue a minute order.

212. [08-36357](#)-B-13J CALVIN/JENNIFER STEWART
JPJ #1

HEARING - TRUSTEE'S
OBJECTION TO CONFIRMATION OF
THE CHAPTER 13 PLAN AND
CONDITIONAL MOTION TO
DISMISS CASE
12-23-08 [[23](#)]

Tentative Ruling: The trustee's objection and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition and due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The attached motion to value the collateral of Operating Engineers is granted. For the purposes of the attached motion to value, Operating Engineers' collateral, a 2004 Ford F250, had a value of \$21,225.00 on the date of the petition. Thus, \$21,225.00 of the creditor's claim is a secured claim, and the balance of its claim is an unsecured claim. The trustee's objections are sustained, for the reasons stated in the chapter 13 trustee's opposition, and confirmation of the plan filed November 7, 2008 is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before January 27, 2009 the debtors file a new plan and a motion to confirm the new plan, properly serve the new plan and the motion and set the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

213. [08-36058](#)-B-13J CHRISTINE KOVARIK
JPJ #1

HEARING - TRUSTEE'S
OBJECTION TO CONFIRMATION
OF THE CHAPTER 13 PLAN AND
CONDITIONAL MOTION TO
DISMISS CASE
12-23-08 [[15](#)]

Tentative Ruling: The trustee's objection and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition and due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The trustee's objections are sustained, for the reasons stated in the chapter 13 trustee's opposition, and confirmation of the plan filed November 3, 2008 is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before January 27, 2009 the debtor files a new plan and a motion to confirm the new plan, properly serves the new plan and the motion and sets the motion for hearing on the next available chapter 13 calendar that provides proper notice.

The court will issue a minute order.

214. [08-36659](#)-B-13J CATRINA WILLIAMS

HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-22-08 [[21](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot. Pursuant to 11 U.S.C. § 521(i), this case was automatically dismissed as of 12:01 a.m. on Tuesday, December 30, 2008. The debtor failed to timely file all of the documents required by 11 U.S.C. § 521(a)(1). No monetary sanctions are imposed.

The court will issue a minute order.

215. [08-34567](#)-B-13J MONIQUE/MURRAY KREHBIEL
JLB #2

HEARING - TRUSTEE'S
COUNTER-MOTION TO CONDITIONALLY
DISMISS CASE
12-19-08 [[34](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is dropped from this calendar, and its merits will be addressed with debtors' motion to confirm elsewhere on the calendar.

216. [08-28172](#)-B-13J FRED/LUDVINA PHELPS
DEF #2
- HEARING - TRUSTEE'S
COUNTER-MOTION TO CONDITIONALLY
DISMISS CASE
12-22-08 [[34](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is dropped from this calendar, and its merits will be addressed with debtors' motion to confirm elsewhere on the calendar.

217. [08-36577](#)-B-13J GRAHAM/LAURA SKINNER
DMM #1
- HEARING - OBJECTION
TO CONFIRMATION OF DEBTORS'
CHAPTER 13 PLAN AND REQUEST
FOR EVIDENTIARY HEARING BY
WACHOVIA MORTGAGE, FSB
12-18-08 [[16](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter. The objection is overruled as moot.

On December 29, 2008, the debtors filed an amended plan. The filing of the amended plan constitute a withdrawal of plan to which the creditor's objection is directed.

The court will issue a minute order.

218. [08-36777](#)-B-13J NICOLE MCDONALD
- HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-22-08 [[15](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot. Pursuant to 11 U.S.C. § 521(i) and considering the automatic extension provided in Fed. R. Bankr. P. 9006(a), this case was automatically dismissed as of 12:01 a.m. on Tuesday, January 6, 2009. The debtor failed to timely file all of the documents required by 11 U.S.C. § 521(a)(1). No monetary sanctions are imposed.

The court will issue a minute order.

219. [08-36278](#)-B-13J EMMA TANKO
JPJ #1

HEARING - TRUSTEE'S
OBJECTION TO CONFIRMATION OF
THE CHAPTER 13 PLAN AND
CONDITIONAL MOTION TO
DISMISS CASE
12-23-08 [[17](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter. The motion is denied as moot.

On January 8, 2009, the debtor filed an amended plan. The filing of the amended plan constitute a withdrawal of the instant plan to which the trustee's objection is directed.

The court will issue a minute order.

220. [08-36780](#)-B-13J YEVGENIY SHEVCHENKO

HEARING - AMENDED ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-29-08 [[18](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot. Pursuant to 11 U.S.C. § 521(i) and considering the automatic extension provided in Fed. R. Bankr. P. 9006(a), this case was automatically dismissed as of 12:01 a.m. on Tuesday, January 6, 2009. The debtor failed to timely file all of the documents required by 11 U.S.C. § 521(a)(1). No monetary sanctions are imposed.

The court will issue a minute order.

221. [08-32683](#)-B-13J RODNYE SHRINER
MET #1

HEARING - TRUSTEE'S
COUNTER-MOTION TO CONDITIONALLY
DISMISS CASE
12-29-08 [[40](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is dropped from this calendar, and its merits will be addressed with debtor's motion to confirm elsewhere on the calendar.

222. [08-36986](#)-B-13J DONALD REILLY

HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-18-08 [[18](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot. Pursuant to 11 U.S.C. § 521(i) and considering the automatic extension provided in Fed. R. Bankr. P. 9006(a), this case was automatically dismissed as of 12:01 a.m. on Tuesday, January 6, 2009. The debtor failed to timely file all of the documents required by 11 U.S.C. § 521(a)(1). No monetary sanctions are imposed.

The court will issue a minute order.

223. [08-29892](#)-B-13J DAVID/LISA KOOPMEINERS
PLG #3

HEARING - TRUSTEE'S
COUNTER-MOTION TO CONDITIONALLY
DISMISS CASE
12-22-08 [[57](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is dropped from this calendar, and its merits will be addressed with debtors' motion to confirm elsewhere on the calendar.

224. [08-36393](#)-B-13J JOHN OSELSKY

HEARING - ORDER
TO SHOW CAUSE RE DISMISSAL
OF CASE OR IMPOSITION OF
SANCTIONS
12-19-08 [[17](#)]

Disposition Without Oral Argument: The order to show cause is discharged as moot. Pursuant to 11 U.S.C. § 521(i) and considering the automatic extension provided in Fed. R. Bankr. P. 9006(a), this case was automatically dismissed as of 12:01 a.m. on Tuesday, December 30, 2008. The debtor failed to timely file all of the documents required by 11 U.S.C. § 521(a)(1). No monetary sanctions are imposed.

The court will issue a minute order.

225. [07-22496](#)-B-13J LORETTA DRAPER
MOH #6

HEARING - TRUSTEE'S
COUNTER-MOTION TO DISMISS CASE
12-19-08 [[122](#)]

Disposition Without Oral Argument: Oral argument will not aid the court in rendering a decision on this matter.

This matter is dropped from this calendar, and its merits will be addressed with debtor's motion to confirm elsewhere on the calendar.

226. [08-36299](#)-B-13J ROY/BEVERLY HAVER
JPJ #1

HEARING - TRUSTEE'S
OBJECTION TO CONFIRMATION OF
THE CHAPTER 13 PLAN AND
CONDITIONAL MOTION TO
DISMISS CASE
12-23-08 [[24](#)]

Tentative Ruling: The trustee's objection and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The attached motion to value the collateral of the Placer County Tax Collector is denied without prejudice. The trustee's objection is sustained, for the reasons stated in the chapter 13 trustee's opposition. Confirmation of the plan filed November 7, 2008 is denied. The trustee's request for an order dismissing the case is conditionally denied, with the conditions being that on or before January 27, 2009 the debtors file a new plan and a motion to confirm the new plan, properly serve the new plan and the motion and set the motion for hearing on the next available chapter 13 calendar that provides proper notice.

Attached motions to avoid liens pursuant to section 522(f) or motions to value collateral are permitted by Paragraph 3(b) of General Order 05-03. Pursuant to that paragraph, each attached motion is required to have been served with a separate notice of the motion. Here, debtors failed to file or serve a separate notice with the attached motion. Accordingly, the attached motion is procedurally improper.

The court will issue a minute order.

227. [08-36020](#)-B-13J STEPHANIE HANSEN AND
MARC LANE

HEARING - OBJECTION
TO CONFIRMATION OF CHAPTER 13
PLAN AND TO MOTION TO VALUE
PROPERTY
12-29-08 [[21](#)]

Tentative Ruling: Novasel & Schwartze Investment, Inc.'s (Objecting Creditor") objection is governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition and due to the size of this calendar (227 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

Objecting Creditor's opposition to the motion to value collateral is sustained and the motion to value Objecting Creditor's collateral is denied without prejudice. Objecting Creditor's first and third objections to confirmation, each raised under 11 U.S.C. § 1325(a)(6), are sustained, and confirmation of the plan filed November 3, 2008 is denied. Objecting Creditor's second objection to confirmation, namely that the plan was not filed in good faith, is overruled.

Counsel for Objecting Creditor should be aware that the objection (Dkt. 21), the certificate of service of the objection (Dkt. 22), the notice of hearing (Dkt. 29), and the certificate of service of the notice of hearing (Dkt. 31) are technically unsigned. The notation "/s/", does not constitute a valid signature. G.O. 04-01 ¶ 12(b).

The court will issue a minute order.