

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman  
Bankruptcy Judge  
Sacramento, California

May 5, 2009 at 9:32 A.M.

- 
1. [09-21800](#)-B-13J TERESA STANLEY HEARING - MOTION  
PGM #1 TO VALUE COLLATERAL OF CHASE  
4-1-09 [[16](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Chase's claim secured by the second deed of trust on real property located at 327 Union Street, Roseville, CA 95678 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$105,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by National City with a balance of approximately \$211,842.80. Thus, the value of the collateral available to Chase on its second deed of trust is \$0.00.

The court will issue a minute order.

2. [09-20802](#)-B-13J FLAVIANO MANCILLA HEARING - MOTION  
SCA #1 TO CONFIRM DEBTOR'S  
CHAPTER 13 PLAN  
4-7-09 [[25](#)]

**Tentative Ruling:** Due to the number of matters on this morning's three related calendars (154 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, and the motion to confirm the plan filed April 7, 2009 is denied.

The court will issue a minute order.

3. [09-20802](#)-B-13J FLAVIANO MANCILLA  
SCA #1

HEARING - TRUSTEE'S  
COUNTER MOTION TO CONDITIONALLY  
DISMISS CASE  
4-20-09 [[29](#)]

**Tentative Ruling:** The trustee's countermotion is governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before May 19, 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.

4. [09-21802](#)-B-13J JULIO/FRANCINE RIVERA  
PGM #1

HEARING - MOTION  
TO VALUE COLLATERAL OF  
COUNTRYWIDE  
4-1-09 [[18](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Countrywide's claim secured by the second deed of trust on real property located at 5787 11<sup>th</sup> Avenue, Sacramento, CA 95820 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$200,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Morning Star Home Loans with a balance of approximately \$215,000.00. Thus, the value of the collateral available to Countrywide on its second deed of trust is \$0.00.

The court will issue a minute order.

5. [08-38703](#)-B-13J ANTHONY BRYANT  
PLG #2

HEARING - DEBTOR'S MOTION  
FOR CONFIRMATION OF FIRST  
AMENDED CHAPTER 13 PLAN  
3-17-09 [[29](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion is granted, and the amended plan filed March 17, 2009 will be confirmed.

The court will issue a minute order granting the motion. 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.

6. [09-20504](#)-B-13J ALEX/THERESA ZOTOW  
WW #2

HEARING - MOTION  
TO VALUE THE COLLATERAL OF  
BANK OF THE WEST  
4-3-09 [[36](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$12,025.00 of Bank of the West's claim secured by a 2005 Trail Lite 5<sup>th</sup> Wheel Cruiser Series M-243-S ("Collateral") is a secured claim, and the balance of such claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Collateral had a value of \$12,025.00 on the date of the petition.

The court will issue a minute order.

7. [08-27705](#)-B-13J JAMES/NORA WASSNER  
JPJ #1

HEARING - TRUSTEE'S OBJECTION  
TO ALLOWANCE OF CLAIM #10  
OF AMERICAN GENERAL FINANCE  
3-19-09 [[23](#)]

**Disposition Without Oral Argument:** This objection is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The objection to claim no. 10 on the court's claims register, filed by American General Finance ("Claim"), is sustained. The Claim is disallowed except to the extent already paid by the trustee.

The Claim was not timely filed. The last date to file a claim was October 22, 2008, and to file a government claim was December 7, 2008. The claim was filed on October 23, 2008.

The court will issue a minute order.

8. [09-20207](#)-B-13J RICARDO/JULIA JIMENEZ  
SL #1

HEARING - MOTION TO  
VALUE COLLATERAL OF BANK  
OF AMERICA, N.A.  
3-25-09 [[25](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Bank of America's claim secured by the second deed of trust on real property located at 114 Hall Street, Arbuckle, CA 95912 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$125,000.00 on the date of the petition. The Property is encumbered by a first deed of trust also held by Bank of America with a balance of approximately \$193,076.56. Thus, the value of the collateral available to Bank of America on its second deed of trust is \$0.00.

The court will issue a minute order.

9. [09-22608](#)-B-13J DIANE YONG  
PGM #1

HEARING - MOTION  
TO VALUE COLLATERAL  
OF CITIBANK N.A./JPMORGAN  
CHASE BANK N.A.  
4-6-09 [[30](#)]

**Tentative Ruling:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Citibank/JP Morgan Chase Bank's claim secured by the second deed of trust on real property located at 2374 Empress Street, Sacramento, CA 95815 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$150,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Citibank/JP Morgan Chase Bank with a balance of approximately \$246,019.82. Thus, the value of the collateral available to Citibank/JP Morgan Chase Bank on its second deed of trust is \$0.00.

The court will issue a minute order.

10. [09-22609](#)-B-13J LORI CAMPBELL  
PGM #1

HEARING - MOTION  
TO VALUE COLLATERAL  
OF NATIONAL CITY BANK  
4-6-09 [[22](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of National City Bank's claim secured by the second deed of trust on real property located at 2541 Carlsbad Avenue, Sacramento, CA 95821 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$150,000.00 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 \$225,968.66. Thus, the value of the collateral available to National City Bank on its second deed of trust is \$0.00.

The court will issue a minute order.

11. [08-31711](#)-B-13J WAYNE/KAREN BODINE  
WW #1

HEARING - MOTION  
TO CONFIRM FIRST MODIFIED  
CHAPTER 13 PLAN  
3-20-09 [[48](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed March 20, 2009 is confirmed.

The court will issue a minute order.

12. [09-20914](#)-B-13J LYLE/EVANGELINE COOK  
JT #2

HEARING - MOTION  
TO CONFIRM FIRST AMENDED  
CHAPTER 13 PLAN  
3-26-09 [[19](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion is granted, and the amended plan filed March 3, 2009 will be confirmed.

The court will issue a minute order granting the motion. 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.

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

CONT. HEARING - MOTION TO  
CONFIRM DEBTOR'S FIRST  
AMENDED CHAPTER 13 PLAN  
1-20-09 [[25](#)]

CONT. FROM 3-10-09

**Tentative Ruling:** This matter continued from March 10, 2009 without a briefing schedule to allow for resolution of an evidentiary hearing on debtor's motion to value Sacramento Municipal Utility District's ("SMUD") collateral. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

Creditor SMUD's objection is sustained. Creditor American Honda Finance's ("AHF") objection is sustained in part. The motion to confirm the plan filed January 20, 2009 is denied.

AHF's assertion that curing defaults is an impermissible loan/contract modification is incorrect. 11 U.S.C. § 365(b)(1)(A) expressly contemplates "prompt cure" of defaults as part of an assumption of an executory contract.

The court will issue a minute order.

14. [09-23317](#)-B-13J GARY/TAMERA RUSSEL  
NUU #1

HEARING - MOTION  
TO VALUE COLLATERAL OF  
GMAC MORTGAGE, LLC  
3-30-09 [[13](#)]

**Disposition Without Oral Argument:** The motion is denied as moot because the bankruptcy case was converted to one under chapter 7 by order entered on April 30, 2009.

The court will issue a minute order.

15. [09-23317](#)-B-13J GARY/TAMERA RUSSEL  
JPJ #1

HEARING - TRUSTEE'S  
OBJECTION TO CONFIRMATION OF THE  
CHAPTER 13 PLAN AND CONDITIONAL  
MOTION TO DISMISS CASE  
4-8-09 [[30](#)]

**Tentative Ruling:** None.

16. [09-23317](#)-B-13J GARY/TAMERA RUSSEL  
NUU #2

HEARING - MOTION  
TO VALUE COLLATERAL OF  
TRAVIS CREDIT UNION  
3-30-09 [[18](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$4,765.00 of Travis Credit Union's claim secured by a 2001 Chevrolet Suburban ("Collateral") is a secured claim, and the balance of such claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Collateral had a value of \$4,765.00 on the date of the petition.

The court will issue a minute order.

17. [09-23317](#)-B-13J GARY/TAMERA RUSSEL  
NUU #3

HEARING - MOTION  
TO VALUE COLLATERAL OF  
COUNTY BANK  
3-30-09 [[23](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$8,970.00 of County Bank's claim secured by a 2005 Pilgrim International, Inc. Camping Trailer, ("Collateral") is a secured claim, and the balance of such claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Collateral had a value of \$8,970.00 on the date of the petition.

The court will issue a minute order.

18. [09-25617](#)-B-13J BRAD/CARLA BENSON  
MWB #1

HEARING - MOTION  
TO VALUE COLLATERAL  
OF BENEFICIAL, SECOND  
DEED OF TRUST  
4-2-09 [[9](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Beneficial's claim secured by the second deed of trust on real property located at 22145 Captains Way, Palo Cedro, CA ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$180,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by GMAC Mortgage with a balance of approximately \$203,245.00. Thus, the value of the collateral available to Beneficial on its second deed of trust is \$0.00.

The court will issue a minute order.

19. [07-28118](#)-B-13J ARCHIE/WANDA TYLER  
ADS #2

HEARING - MOTION  
TO VALUE COLLATERAL OF  
HOUSEHOLD MORTGAGE SVCS.  
4-3-09 [[51](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Household Mortgage Service's claim secured by the second deed of trust on real property located at 3109 Harbour Shore Lane, Elk Grove, CA 95758 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$465,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Countrywide with a balance of approximately \$539,846.00. Thus, the value of the collateral available to Household Mortgage Service on its second deed of trust is \$0.00.

The court will issue a minute order.

20. [08-29022](#)-B-13J SCOTT/HEATHER WEAVER  
DRB #3

HEARING - MOTION  
TO CONFIRM DEBTOR'S CHAPTER 13  
FIRST AMENDED PLAN  
3-20-09 [[43](#)]

**Tentative Ruling:** Due to the number of matters on this morning's three related calendars (154 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, and the plan filed March 20, 2009 will not be confirmed.

Although no party in interest has objected to the motion, the court has an independent duty to determine whether the plan satisfies the requirements for confirmation. Chinichian v. Campolongo (In re Chinichian), 784 F.2d 1440, 1443-1444 (9th Cir. 1986) ("For a court to confirm a plan, each of the requirements of section 1325 must be present and the debtor has the burden of proving that each element has been met."), In re Lucas, 3 B.R. 252, 253 (Bankr. S.D. Cal. 1980) ("In order to confirm any Chapter 13 Plan, the court must be satisfied, by an independent analysis of the facts, that the plan meets all of the

requirements of § 1325(a)."). Here, the debtors admit they are delinquent in plan payments and therefore have not carried their burden of showing that the plan complies with 11 U.S.C. § 1325(a)(6).

The court will issue a minute order.

21. [08-36122](#)-B-13J PETER OVALLE III HEARING - MOTION TO  
PGM #4 CONFIRM DEBTOR'S SECOND  
AMENDED PLAN  
3-24-09 [[53](#)]

**Tentative Ruling:** Due to the number of matters on this morning's three related calendars (154 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, and the motion to confirm the plan filed March 24, 2009 is denied.

The court will issue a minute order.

22. [08-36122](#)-B-13J PETER OVALLE III HEARING - TRUSTEE'S  
PGM #4 COUNTER MOTION TO CONDITIONALLY  
DISMISS CASE  
4-14-09 [[65](#)]

**Tentative Ruling:** The trustee's countermotion is governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before May 19, 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.

23. [09-21023](#)-B-13J RONALD/GLORIA HARRIS HEARING - MOTION TO  
SL #1 VALUE COLLATERAL OF AMERICAN  
HOME MORTGAGE SERVICING, INC.  
3-25-09 [[17](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of claim secured by the second deed of trust on real property located at 702 Cimmaron Court, Galt, CA 95632

("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$207,500.00 on the date of the petition. The Property is encumbered by a first deed of trust held by American Home Mortgage Servicing, Inc. with a balance of approximately \$260,821.26. Thus, the value of the collateral available to American Home Mortgage Servicing, Inc. on its second deed of trust is \$0.00.

The court will issue a minute order.

24. [09-22523](#)-B-13J SHERRY HORNE  
ADS #1
- HEARING - OBJECTION  
TO CONFIRMATION OF CHAPTER 13  
PLAN AND OPPOSITION TO THE  
MOTION TO VALUE COLLATERAL  
3-27-09 [[21](#)]

**Tentative Ruling:** Due to the number of matters on this morning's three related calendars (154 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 is deemed withdrawn. Creditor American Honda Finance's objection is sustained, and the motion to confirm the plan filed February 13, 2009 is denied.

The court will issue a minute order.

25. [09-24523](#)-B-13J VED/MICHELL RATTI  
JT #1
- HEARING - MOTION  
TO VALUE COLLATERAL OF  
WELLS FARGO  
3-26-09 [[16](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Wells Fargo's claim secured by the second deed of trust on real property located at 1547 Camino De Flores, Yuba City, CA 95993 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$157,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by HSBC Mortgage Services with a balance of approximately \$176,850.00. Thus, the value of the collateral available to Wells Fargo on its second deed of trust is \$0.00.

The court will issue a minute order.

26. [09-24523](#)-B-13J VED/MICHELL RATTI  
JT #2

HEARING - MOTION  
TO VALUE COLLATERAL OF HSBC  
3-30-09 [[21](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$6,545.00 of HSBC's claim secured by a 2006 Predator 90 and a 2006 Predator 500 ("Collateral") is a secured claim, and the balance of such claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Collateral had a value of \$6,545.00 on the date of the petition.

The court will issue a minute order.

27. [08-27324](#)-B-13J SHERYL WILLIAMS  
JPJ #1

HEARING - TRUSTEE'S OBJECTION  
TO ALLOWANCE OF CLAIM NO. 16  
OF CHASE/PALISADES COLLECTION  
3-9-09 [[17](#)]

**Disposition Without Oral Argument:** This objection is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The objection to claim no. 16 on the court's claims register, filed by Chase/Palisades Collection/Asta Funding ("Claim"), is sustained. The Claim is disallowed except to the extent already paid by the trustee.

The Claim was not timely filed. The last date to file a claim was October 1, 2008, and to file a government claim was November 29, 2008. The Claim was filed on October 2, 2008.

The court will issue a minute order.

28. [09-22724](#)-B-13J KEONI/LORNA KALUA

HEARING - MOTION  
TO VALUE COLLATERAL OF THE  
GOLDEN ONE CREDIT UNION  
4-6-09 [[26](#)]

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

The motion is denied without prejudice.

The motion suffers from procedural defects. The debtors failed to serve the motion, its supporting papers, and notice of the continued hearing on creditor Golden One Credit Union in the manner required by Fed. R. Bankr. P. 7004. Second, the motion was filed without a docket control number, in derogation of LBR 9014-1(c). Third, the motion is not supported by

legal authority or by evidence, in derogation of LBR 9014-1(d) (5) and (d) (6). A failure to comply with the Local Bankruptcy Rules alone is grounds for denial of the motion. LBR 1001-1(g).

The court will issue a minute order.

29. [09-22724](#)-B-13J KEONI/LORNA KALUA HEARING - MOTION  
JGE #1 TO CONFIRM CHAPTER 13 PLAN  
4-6-09 [[24](#)]

**Tentative Ruling:** Due to the number of matters on this morning's three related calendars (154 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 is deemed withdrawn. The trustee's objections are sustained, and the motion to confirm the plan filed April 6, 2009 is denied.

The attached motion to value is deemed withdrawn because the debtors filed a stand alone motion to value Chase Manhattan's Mortgage's collateral which is addressed elsewhere on this calendar.

The court will issue a minute order.

30. [09-22724](#)-B-13J KEONI/LORNA KALUA HEARING - TRUSTEE'S  
COUNTER MOTION TO CONDITIONALLY  
DISMISS CASE  
4-14-09 [[33](#)]

**Tentative Ruling:** The trustee's countermotion is governed by the procedures of LBR 9014-1(f) (2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before May 19, 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.

31. [09-22724](#)-B-13J KEONI/LORNA KALUA HEARING - MOTION  
JGE #2 TO VALUE COLLATERAL OF CHASE  
MANHATTAN MORTGAGE  
4-6-09 [[28](#)]

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

The motion is denied without prejudice.

The motion suffers from procedural defects. The debtors failed to serve the motion, its supporting papers, and notice of the continued hearing on creditor Chase Manhattan Mortgage in the manner required by Fed. R. Bankr. P. 7004. Second, the motion was filed without a docket control number, in derogation of LBR 9014-1(c). Third, the motion is not supported by legal authority or by evidence, in derogation of LBR 9014-1(d) (5) and (d) (6). A failure to comply with the Local Bankruptcy Rules alone is grounds for denial of the motion. LBR 1001-1(g).

The court will issue a minute order.

32. [09-23124](#)-B-13J RUBINA ALLRED  
JPJ #1

HEARING - TRUSTEE'S  
OBJECTION TO CONFIRMATION OF  
THE CHAPTER 13 PLAN AND  
CONDITIONAL MOTION TO DISMISS  
4-8-09 [[23](#)]

**Disposition Without Oral Argument:** The objection is overruled as moot and the chapter 13 trustee's conditional motion to dismiss is denied.

The bankruptcy case was converted to one under chapter 7 on April 10, 2009.

The court will issue a minute order.

33. [09-24525](#)-B-13J JEFF/HOLLY KIER  
JT #1

HEARING - MOTION  
TO VALUE COLLATERAL OF  
CITIBANK, N.A.  
3-26-09 [[12](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Citibank's claim secured by the second deed of trust on real property located at 412 Nightingale Court, Wheatland, CA 95692 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$193,000.00 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 \$239,176.00. Thus, the value of the collateral available to Citibank on its second deed of trust is \$0.00.

The court will issue a minute order.

34. [08-36127](#)-B-13J LUCILLE BROWN  
FF #3

HEARING - MOTION TO  
CONFIRM SECOND AMENDED  
CHAPTER 13 PLAN  
3-10-09 [[58](#)]

CASE DISMISSED 3-13-09

**Tentative Ruling:** Due to the number of matters on this morning's three related calendars (154 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 collateral is deemed withdrawn. The trustee's objections are sustained for the reasons stated therein, and the motion to confirm the plan filed April 9, 2009 is denied.

The attached motion to value is deemed withdrawn because the debtor filed a stand alone motion to value United Mortgage & Loan Investment, LLC's collateral which is addressed elsewhere on this calendar.

The court will issue a minute order.

35. [08-36127](#)-B-13J LUCILLE BROWN

HEARING - TRUSTEE'S  
COUNTER MOTION TO CONDITIONALLY  
DISMISS CASE  
4-14-09 [[84](#)]

CASE DISMISSED 3-13-09

**Tentative Ruling:** The trustee's countermotion is governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before May 19, 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.

36. [08-36127](#)-B-13J LUCILLE BROWN  
FF #4

HEARING - MOTION TO  
VALUE COLLATERAL (REAL ESTATE)  
FOR LIEN OF UNITED MORTGAGE &  
LOAN INVESTMENT, LLC.  
3-10-09 [[61](#)]

CASE DISMISSED 3-12-09

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

The motion is denied without prejudice.

The motion suffers from procedural defects. Debtor has failed to file a proof of service with her motion in derogation of LBR 9014-1(e). Debtor has also failed to submit any evidence supporting the motion in derogation of LBR 9014-1(d)(6). A failure to comply with the Local Bankruptcy Rules alone is grounds for denial of the motion. LBR 1001-1(g).

The court will issue a minute order.

37. [07-24228](#)-B-13J WILLIAM/GAIL VAN BOENING HEARING - OBJECTION  
JPJ #4 BY TRUSTEE TO ALLOWANCE OF  
CLAIM NO. 31 OF DIANE L. FONNER  
3-9-09 [[94](#)]

**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 objection to claim No. 31 on the court's claims register, filed by the Diane L. Fonner ("Claim"), is sustained. The Claim is disallowed except to the extent already paid by the trustee.

Through this objection, the trustee seeks to disallow the Claim as untimely. The trustee notes that the last date to file a claim was October 17, 2007 and to file a government claim was December 2, 2007. Diane L. Fonner ("Fonner") filed the Claim for \$124,682.28 on January 7, 2009.

Fonner has filed a response, which does not dispute that the Claim was untimely filed. Instead, Fonner argues that the Claim should be allowed because Fonner never received notice of the filing of the case. Fonner states that she is not listed on the master address list.

In the Ninth Circuit, lack of notice of the claims bar deadline is not sufficient grounds for allowance of a claim filed after the deadline. See In re Coastal Alaska Airlines, Inc., 920 F.2d 1428, 1432-33 (9<sup>th</sup> Cir. 1990); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9<sup>th</sup> Cir. 1999). As stated by the Coastal Alaska court, "[m]ost of the cases allowing late filing of claims involve creditors who did not receive notice of the claims bar deadline. However, we do not believe that those cases can be reconciled with Rule 3002(c)." Coastal Alaska, 920 F.2d at 1432. Instead, Ninth Circuit authority holds that a claim is timely filed and allowed for the purposes of a chapter 13 case only if one of the requirements under Federal Rule of Bankruptcy Procedure 3002(c) is satisfied. Coastal Alaska, 920 F.2d at 1432-33 ("Rule 3002(c) identifies six circumstances where a late filing is allowed."); Edelman, 237 B.R. at 152 (Bankruptcy Rule 3002(c) provides only five exceptions to the ninety day filing period prescribed for the filing of claims). Coastal Alaska's reference to six circumstances under Bankruptcy Rule 3002(c) and Edelman's reference to five circumstances is explained by the 1996 amendments to

the Bankruptcy Code, which abrogated allowance of late-filed claims against surplus estate assets in chapter 7 cases. Bankruptcy Rule 3002 therefore "complements the process of allowing claims by setting a bar date by which a claim must be filed in order to be allowed under 11 U.S.C. § 502." In re Osborne, 76 F.3d 306, 309-310 (9<sup>th</sup> Cir. 1996).

In this case, Fonner has failed to establish that any of the circumstances under Bankruptcy Rule 3002(c) apply. Accordingly, the Claim is disallowed as untimely, except to the extent already paid by the chapter 13 trustee.

Although the court is bound to follow the precedent established by the Ninth Circuit Court of Appeals, it makes no ruling at this time as to whether the debt owed to County will be discharged upon completion of the case. Such a ruling would require an adversary proceeding for declaratory relief, which would be appropriate if the debtors complete their plan and receive a discharge. Section 1328(a) of the Bankruptcy Code provides, in relevant part, that upon completion of all payments under the plan, the court shall grant the debtor a discharge of "all debts provided by the plan or disallowed under section 502 of this title." 11 U.S.C. § 1328(a). A chapter 13 creditor's claim is not discharged if the creditor did not receive proper notice of the case. See United States v. Hairopoulos (In re Hairopoulos), 118 F.3d 1240, 1244 (8<sup>th</sup> Cir. 1997) ("[A] claim cannot be considered to have been provided for by the plan if a creditor does not receive proper notice of the proceedings") citing In re Greenburgh, 151 B.R. 709, 716 (Bankr. E.D. Pa. 1993); In re Ryan, 78 B.R. 175, 183 (Bankr. E.D. Tenn. 1987); In re Cash, 51 B.R. 927, 929 (Bankr. N.D. Ala. 1985). "Both statutory and constitutional implications arise when a creditor fails to receive adequate notice of the bankruptcy proceedings . . . . The constitutional component of notice is based upon a recognition that creditors have a right to adequate notice and the opportunity to participate in a meaningful way in the course of bankruptcy proceedings. Hairopoulos, 118 F.3d at 1244-125, citing City of New York v. New York, New Haven & Hartford R.R. Co., 344 U.S. 293, 297, 73 S.Ct. 299, 301, 97 L.Ed. 333 (1953); Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314, 70 S.Ct. 652, 657, 94 L.Ed. 865 (1950).

The court will issue a minute order.

38. 07-24228-B-13J WILLIAM/GAIL VAN BOENING  
JPJ #5

HEARING - OBJECTION  
BY TRUSTEE TO ALLOWANCE OF  
CLAIM NO. 30 OF DIANE L. FONNER  
3-9-09 [98]

**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 objection to claim No. 30 on the court's claims register, filed by the Diane L. Fonner ("Claim"), is sustained. The Claim is disallowed except to the extent already paid by the trustee.

Through this objection, the trustee seeks to disallow the Claim as untimely. The trustee notes that the last date to file a claim was October 17, 2007 and to file a government claim was December 2, 2007. Diane L. Fonner ("Fonner") filed the Claim for \$239,969.39 on January 7, 2009.

Fonner has filed a response, which does not dispute that the Claim was untimely filed. Instead, Fonner argues that the Claim should be allowed because Fonner never received notice of the filing of the case. Fonner states that she is not listed on the master address list.

In the Ninth Circuit, lack of notice of the claims bar deadline is not sufficient grounds for allowance of a claim filed after the deadline. See In re Coastal Alaska Airlines, Inc., 920 F.2d 1428, 1432-33 (9<sup>th</sup> Cir. 1990); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9<sup>th</sup> Cir. 1999). As stated by the Coastal Alaska court, "[m]ost of the cases allowing late filing of claims involve creditors who did not receive notice of the claims bar deadline. However, we do not believe that those cases can be reconciled with Rule 3002(c)." Coastal Alaska, 920 F.2d at 1432. Instead, Ninth Circuit authority holds that a claim is timely filed and allowed for the purposes of a chapter 13 case only if one of the requirements under Federal Rule of Bankruptcy Procedure 3002(c) is satisfied. Coastal Alaska, 920 F.2d at 1432-33 ("Rule 3002(c) identifies six circumstances where a late filing is allowed."); Edelman, 237 B.R. at 152 (Bankruptcy Rule 3002(c) provides only five exceptions to the ninety day filing period prescribed for the filing of claims). Coastal Alaska's reference to six circumstances under Bankruptcy Rule 3002(c) and Edelman's reference to five circumstances is explained by the 1996 amendments to the Bankruptcy Code, which abrogated allowance of late-filed claims against surplus estate assets in chapter 7 cases. Bankruptcy Rule 3002 therefore "complements the process of allowing claims by setting a bar date by which a claim must be filed in order to be allowed under 11 U.S.C. § 502." In re Osborne, 76 F.3d 306, 309-310 (9<sup>th</sup> Cir. 1996).

In this case, Fonner has failed to establish that any of the circumstances under Bankruptcy Rule 3002(c) apply. Accordingly, the Claim is disallowed as untimely, except to the extent already paid by the chapter 13 trustee.

Although the court is bound to follow the precedent established by the Ninth Circuit Court of Appeals, it makes no ruling at this time as to whether the debt owed to County will be discharged upon completion of the case. Such a ruling would require an adversary proceeding for declaratory relief, which would be appropriate if the debtors complete their plan and receive a discharge. Section 1328(a) of the Bankruptcy Code provides, in relevant part, that upon completion of all payments under the plan, the court shall grant the debtor a discharge of "all debts provided by the plan or disallowed under section 502 of this title." 11 U.S.C. § 1328(a). A chapter 13 creditor's claim is not discharged if the creditor did not receive proper notice of the case. See United States v. Hairopoulos (In re Hairopoulos), 118 F.3d 1240, 1244 (8<sup>th</sup> Cir. 1997) ("[A] claim cannot be considered to have been provided for by the plan if a creditor does not receive proper notice of the proceedings") citing In re Greenburgh, 151 B.R. 709, 716 (Bankr. E.D. Pa. 1993); In re Ryan, 78 B.R. 175, 183 (Bankr. E.D. Tenn. 1987); In re Cash, 51 B.R. 927, 929 (Bankr. N.D. Ala. 1985). "Both statutory and constitutional implications arise when a creditor fails to receive adequate notice of the bankruptcy proceedings . . . . The constitutional



41. [08-27230](#)-B-13J JEFFERSON/CINDY GRAHAM  
JPJ #1

HEARING - OBJECTION  
BY TRUSTEE TO ALLOWANCE OF  
CLAIM NO. 17 OF AMERICAN  
GENERAL FINANCE  
3-9-09 [[59](#)]

**Disposition Without Oral Argument:** This objection is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The objection to claim no. 17 on the court's claims register, filed by American General Finance ("Claim"), is sustained. The Claim is disallowed except to the extent already paid by the trustee.

The Claim was not timely filed. The last date to file a claim was October 1, 2008, and to file a government claim was November 26, 2008. The Claim was filed on October 3, 2008.

The court will issue a minute order.

42. [09-22930](#)-B-13J VICTOR/MICHELLE  
MAE #1 PHOUMMATHEP  
FIRST FRANKLIN

HEARING - MOTION  
TO VALUE COLLATERAL OF  
FIRST FRANKLIN  
3-27-09 [[29](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of First Franklin's claim secured by the second deed of trust on real property located at 556 Townsend Drive, Benicia, CA 94510 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$530,000.00 on the date of the petition. The Property is encumbered by a first deed of trust also held by First Franklin with a balance of approximately \$616,000.00. Thus, the value of the collateral available to First Franklin on its second deed of trust is \$0.00.

The court will issue a minute order.

43. [08-38731](#)-B-13J JULIO/KARINA GALVAN  
WGM #1

CONT. HEARING - OBJECTION  
TO CONFIRMATION OF DEBTORS'  
CHAPTER 13 PLAN BY JPMORGAN  
CHASE BANK, N.A.  
2-4-09 [[22](#)]

CONT. FROM 3-10-09

**Tentative Ruling:** This matter continued from March 10, 2009 without a briefing schedule. Nothing further has been filed in this matter. Creditor JP Morgan Chase Bank'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 number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

Creditor JP Morgan Chase Bank's objection is overruled, and the plan filed December 18, 2008 will be confirmed.

The court will issue a minute order granting the motion. 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 initial plan.

44. [08-25532](#)-B-13J CAROLYN M. WILLIAMS  
JPJ #1

HEARING - OBJECTION  
BY TRUSTEE TO ALLOWANCE OF  
CLAIM NOS. 7 AND 8 OF  
BANK OF STOCKTON  
3-9-09 [[28](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim No. 7, filed June 5, 2008 by HSBC Mortgage Services in the amount of \$43,326.07 (the "Claim"), is disallowed except to the extent previously paid by the trustee.

The Claim is a duplicate of claim no. 8 on the court's claims register, filed by HSBC Mortgage Services, Inc. Both the Claim and claim no. 8 rely on the same account number as the bases of the claims.

The court will issue a minute order.

45. [03-26833](#)-B-13J REX/LETECIA ADAMS  
WW #2

HEARING - MOTION  
TO VACATE THE DISMISSAL OF  
CASE NO. 03-26833  
4-7-09 [[35](#)]

**Tentative Ruling:** Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following





The attached motion to value HSBC Auto's collateral is denied. The attached motion to avoid HSBC Auto's lien is denied. JP Morgan Chase Bank's objection is sustained. Confirmation of the plan filed February 17, 2009 is denied.

The objection suffers from the following procedural defects. Movant's notice of hearing fails to specify whether and when written opposition must be filed. LBR 9014-1(d)(3) provides that "[t]he notice of hearing shall advise potential respondents whether and when written opposition must be filed, the deadline for filing and serving it, and the names and addresses of the persons who must be served with any opposition." LBR 9014-1(d)(3).

The court will issue a minute order.

51. [08-27142](#)-B-13J JOHNNY GONZALES HEARING - TRUSTEE'S OBJECTION  
JPJ #1 TO ALLOWANCE OF CLAIM NO. 14 OF  
CREDITOR SPECIALTY SERVICES  
3-9-09 [[24](#)]

**Disposition Without Oral Argument:** This objection is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The objection to claim no. 14 on the court's claims register, filed by Creditor Specialty Services ("Claim"), is sustained. The Claim is disallowed except to the extent already paid by the trustee.

The Claim was not timely filed. The last date to file a claim was October 1, 2008, and to file a government claim was November 26, 2008. The Claim was filed on January 26, 2009.

The court will issue a minute order.

52. [09-21142](#)-B-13J SYBRENA BROWN HEARING - MOTION  
LC #2 FOR ORDER CONFIRMING FIRST  
AMENDED CHAPTER 13 PLAN  
3-26-09 [[31](#)]

**Tentative Ruling:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to confirm the plan filed March 26, 2009 is denied.

Although no party in interest has objected to the motion, the court has an independent duty to determine whether the plan satisfies the requirements for confirmation. Chinichian v. Campolongo (In re Chinichian), 784 F.2d 1440, 1443-1444 (9th Cir. 1986) ("For a court to confirm a plan, each of the requirements of section 1325 must be present and the debtor has the burden of proving that each element has been met."), In re Lucas, 3 B.R. 252, 253 (Bankr. S.D. Cal. 1980) ("In order to confirm any Chapter 13 Plan, the court must be satisfied, by an independent analysis of the facts, that the plan meets all of the

requirements of § 1325(a)."). Here, the plan fails to provide for Sacramento Credit Union's secured claim in the amount of \$70,119.38 (POC 2), and no motion to value Sacramento Credit Union's collateral has been granted in this case.

The court will issue a minute order.

53. [08-37944](#)-B-13J LYNN/LORRAINE JONES  
AJP #4

HEARING - MOTION  
TO VALUE COLLATERAL OF  
NATIONAL CITY MORTGAGE, INC.  
4-7-09 [[73](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of National City Mortgage, Inc.'s claim secured by the second deed of trust on real property located at 34755 Boony Nook Road, Alta, CA 95701 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$375,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Chase Mortgage with a balance of approximately \$404,000.00. Thus, the value of the collateral available to National City Mortgage, Inc. on its second deed of trust is \$0.00.

The court will issue a minute order.

54. [08-37944](#)-B-13J LYNN/LORRAINE JONES  
AJP #5

HEARING - MOTION TO  
VALUE COLLATERAL OF JAMES SOWARD  
4-7-09 [[77](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of James A. Soward's claim secured by the third deed of trust on real property located at 34755 Bonny Nook Road, Alta, CA 95701 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$375,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Chase Mortgage with a balance of approximately \$404,000.00. Thus, the value of the collateral available to James A. Soward on its third deed of trust is \$0.00.

The court will issue a minute order.

55. [08-38246](#)-B-13J DAVID/DEBBIE BROOKE  
FF #1

HEARING - MOTION TO  
CONFIRM CHAPTER 13 PLAN  
3-13-09 [[60](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The attached motion to value HSBC Beneficial's collateral is deemed withdrawn. The motion is granted, and the initial plan filed January 20, 2009 will be confirmed.

The attached motion to value is deemed withdrawn because the debtors filed a stand alone motion to value HSBC Beneficial's collateral which is addressed elsewhere on this calendar.

The court will issue a minute order granting the motion. 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 initial plan.

56. [08-38246](#)-B-13J DAVID/DEBBIE BROOKE  
FF #2

HEARING - MOTION TO  
VALUE COLLATERAL (REAL ESTATE)  
3-13-09 [[56](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of HSBC Beneficial's claim secured by the second deed of trust on real property located at 3313 Brownlea Circle, Antelope, CA 95843 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$165,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Countrywide with a balance of approximately \$195,910.68. Thus, the value of the collateral available to HSBC Beneficial on its second deed of trust is \$0.00.

The court will issue a minute order.

57. [08-27555](#)-B-13J GUSTAVO/MARIA GUZMAN  
JPJ #3

HEARING - OBJECTION BY  
TRUSTEE TO ALLOWANCE OF CLAIM  
NO. 27 OF LIBERTY CENTER 1  
ELK GROVE INC. PDF DEVELOPMENT  
3-9-09 [[71](#)]

**Disposition Without Oral Argument:** This objection is unopposed. Due to the number of matters on this morning's three related calendars (154

matters), the court issues the following abbreviated ruling.

The objection to claim no. 27 on the court's claims register, filed by Liberty Center 1 Elk Grove ("Claim"), is sustained. The Claim is disallowed except to the extent already paid by the trustee.

The Claim was not timely filed. The last date to file a claim was October 22, 2008, and to file a government claim was December 3, 2008. The Claim was filed on November 17, 2008.

The court will issue a minute order.

58. [08-27555](#)-B-13J GUSTAVO/MARIA GUZMAN  
JPJ #4

HEARING - OBJECTION  
BY TRUSTEE TO ALLOWANCE OF  
CLAIM NO. 32 OF SACRAMENTO  
COUNTY TAX COLLECTOR  
3-9-09 [75]

**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 objection to claim No. 32 on the court's claims register, filed by the Sacramento County Tax Collector ("Claim"), is sustained. The Claim is disallowed except to the extent already paid by the trustee.

Through this objection, the trustee seeks to disallow the Claim as untimely. The trustee notes that the last date to file a claim was October 22, 2008 and to file a government claim was December 3, 2008. The Sacramento County Tax Collector ("County") filed the Claim for \$22,453.21 on January 26, 2009.

County has filed a response, which does not dispute that the Claim was untimely filed. Instead, County argues that the Claim should be allowed because County never received notice of the filing of the case. To this end, County states that it is not listed on the master address list.

In the Ninth Circuit, lack of notice of the claims bar deadline is not sufficient grounds for allowance of a claim filed after the deadline. See In re Coastal Alaska Airlines, Inc., 920 F.2d 1428, 1432-33 (9<sup>th</sup> Cir. 1990); In re Edelman, 237 B.R. 146, 153 (B.A.P. 9<sup>th</sup> Cir. 1999). As stated by the Coastal Alaska court, "[m]ost of the cases allowing late filing of claims involve creditors who did not receive notice of the claims bar deadline. However, we do not believe that those cases can be reconciled with Rule 3002(c)." Coastal Alaska, 920 F.2d at 1432. Instead, Ninth Circuit authority holds that a claim is timely filed and allowed for the purposes of a chapter 13 case only if one of the requirements under Federal Rule of Bankruptcy Procedure 3002(c) is satisfied. Coastal Alaska, 920 F.2d at 1432-33 ("Rule 3002(c) identifies six circumstances where a late filing is allowed."); Edelman, 237 B.R. at 152 (Bankruptcy Rule 3002(c) provides only five exceptions to the ninety day filing period prescribed for the filing of claims). Coastal Alaska's reference

to six circumstances under Bankruptcy Rule 3002(c) and Edelman's reference to five circumstances is explained by the 1996 amendments to the Bankruptcy Code, which abrogated allowance of late-filed claims against surplus estate assets in chapter 7 cases. Bankruptcy Rule 3002 therefore "complements the process of allowing claims by setting a bar date by which a claim must be filed in order to be allowed under 11 U.S.C. § 502." In re Osborne, 76 F.3d 306, 309-310 (9<sup>th</sup> Cir. 1996).

In this case, County has failed to establish that any of the circumstances under Bankruptcy Rule 3002(c) apply. Accordingly, the Claim is disallowed as untimely, except to the extent already paid by the chapter 13 trustee.

Although the court is bound to follow the precedent established by the Ninth Circuit Court of Appeals, it makes no ruling at this time as to whether the debt owed to County will be discharged upon completion of the case. Such a ruling would require an adversary proceeding for declaratory relief, which would be appropriate if the debtors complete their plan and receive a discharge. Section 1328(a) of the Bankruptcy Code provides, in relevant part, that upon completion of all payments under the plan, the court shall grant the debtor a discharge of "all debts provided by the plan or disallowed under section 502 of this title." 11 U.S.C. § 1328(a). A chapter 13 creditor's claim is not discharged if the creditor did not receive proper notice of the case. See United States v. Hairopoulos (In re Hairopoulos), 118 F.3d 1240, 1244 (8<sup>th</sup> Cir. 1997) ("[A] claim cannot be considered to have been provided for by the plan if a creditor does not receive proper notice of the proceedings") citing In re Greenburgh, 151 B.R. 709, 716 (Bankr. E.D. Pa. 1993); In re Ryan, 78 B.R. 175, 183 (Bankr. E.D. Tenn. 1987); In re Cash, 51 B.R. 927, 929 (Bankr. N.D. Ala. 1985). "Both statutory and constitutional implications arise when a creditor fails to receive adequate notice of the bankruptcy proceedings . . . . The constitutional component of notice is based upon a recognition that creditors have a right to adequate notice and the opportunity to participate in a meaningful way in the course of bankruptcy proceedings. Hairopoulos, 118 F.3d at 1244-125, citing City of New York v. New York, New Haven & Hartford R.R. Co., 344 U.S. 293, 297, 73 S.Ct. 299, 301, 97 L.Ed. 333 (1953); Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314, 70 S.Ct. 652, 657, 94 L.Ed. 865 (1950).

The court will issue a minute order.

59. 09-20355-B-13J MARQUESE/JANICE WILLIAMS HEARING - MOTION TO  
SL #1 VALUE COLLATERAL OF SPECIALIZED  
LOAN SERVICING, LLC  
3-25-09 [15]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Specialized Loan Servicing, LLC's claim secured by the second deed of trust on real property located at 10586 Apple Grove Way, Rancho Cordova, CA 95670 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$247,500.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Specialized Accredited Home Lenders with a balance of approximately \$288,229.00. Thus, the value of the collateral available to Specialized Loan Servicing, LLC on its second deed of trust is \$0.00.

The court will issue a minute order.

60. [09-24656](#)-B-13J ELEANOR SWYERS  
JT #1

HEARING - MOTION TO  
VALUE COLLATERAL OF GREEN  
TREE SERVICING  
3-31-09 [[12](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Green Tree Servicing's claim secured by the second deed of trust on real property located at 1675 Vernon Street, #37, Roseville, CA 95678 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$109,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by MOR Equity with a balance of approximately \$197,799.00.. Thus, the value of the collateral available to Green Tree Servicing on its second deed of trust is \$0.00.

The court will issue a minute order.

61. [08-38457](#)-B-13J SAUL/FABIOLA RUVALCABA  
MRT #1

HEARING - MOTION  
TO MODIFY AND CONFIRM  
CHAPTER 13 PLAN  
3-10-09 [[24](#)]

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

The motion is dismissed. The trustee's objection is overruled as moot.

On April 29, 2009, the debtors filed an amended plan and motion to confirm. The filing of the amended plan constitutes a withdrawal of the plan to which the trustee's objection is directed.

The court will issue a minute order.

62. [08-38457](#)-B-13J SAUL/FABIOLA RUVALCABA HEARING - TRUSTEE'S  
MRT #1 COUNTER MOTION TO CONDITIONALLY  
DISMISS CASE  
4-20-09 [[33](#)]

**Tentative Ruling:** The trustee's countermotion is denied.

On April 29, 2009, the debtors filed an amended plan and motion to confirm.

The court will issue a minute order.

63. [09-22257](#)-B-13J MIGUEL/ARACELY PLASCENCIA HEARING - MOTION FOR  
MET #1 ORDER VALUING COLLATERAL  
OF BANK OF AMERICA  
4-1-09 [[16](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Bank of America's claim secured by the second deed of trust on real property located at 226 Serrano Drive, Fairfield, CA ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$105,000.00 on the date of the petition. The Property is encumbered by a first deed of trust also held by Bank of America with a balance of approximately \$285,000.00. Thus, the value of the collateral available to Bank of America on its second deed of trust is \$0.00.

The court will issue a minute order.

64. [09-24458](#)-B-13J OMAR/TONI MARTINEZ HEARING - MOTION  
SAC #1 TO VALUE COLLATERAL  
OF TOYOTA FINANCIAL  
4-2-09 [[13](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$20,575.00 of Toyota Financial's claim secured by a 2007 Toyota 4-Runner ("Collateral") is a secured claim, and the balance of such claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the

Collateral had a value of \$20,575.00 on the date of the petition.

The court will issue a minute order.

65. [09-24458](#)-B-13J OMAR/TONI MARTINEZ  
SAC #2

HEARING - MOTION  
TO VALUE COLLATERAL  
OF COUNTRYWIDE  
4-2-09 [[17](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of creditor's claim secured by the second deed of trust on real property located at 9424 Aizenberg Circle, Elk Grove, California ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$130,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Countrywide with a balance of approximately \$175,000.00. Thus, the value of the collateral available to Countrywide on its second deed of trust is \$0.00.

The court will issue a minute order.

66. [09-21760](#)-B-13J DEEDRIA CLARK  
PGM #1

HEARING - MOTION  
TO VALUE COLLATERAL  
OF COUNTRYWIDE  
3-31-09 [[18](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of creditor's claim secured by the second deed of trust on real property located at 250 Del Verde Court, # 5, Sacramento, California 95833 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$115,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Countrywide with a balance of approximately \$154,467.87. Thus, the value of the collateral available to Countrywide on its second deed of trust is \$0.00.

The court will issue a minute order.

67. [09-24160](#)-B-13J STEPHEN/SONIA CURTICE  
DBJ #1

HEARING - MOTION  
TO VALUE COLLATERAL  
OF GMAC MORTGAGE  
3-30-09 [[13](#)]

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

The bankruptcy case was converted to one under chapter 7 on April 20, 2009.

The court will issue a minute order.

68. [09-23561](#)-B-13J GILBERTO/ELIZABETH GARAY  
JPJ #1

HEARING - TRUSTEE'S  
OBJECTION TO CONFIRMATION OF  
THE CHAPTER 13 PLAN AND  
CONDITIONAL MOTION TO  
DISMISS CASE  
4-8-09 [[13](#)]

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

The objections is overruled as moot.

On April 20, 2009, the debtors filed an amended plan and a motion to confirm. The filing of the amended plan and motion to confirm constitute a withdrawal of the plan to which the trustee's objection is directed.

The court will issue a minute order.

69. [09-22862](#)-B-13J JOHNNY/ROSA MONTES  
JPJ #2

HEARING - TRUSTEE'S  
OBJECTION TO DEBTOR'S CLAIM  
OF EXEMPTIONS  
4-1-09 [[23](#)]

**Disposition Without Oral Argument:** The objection is overruled as moot.

On April 13, 2009, the debtors filed an amended Schedule C. (Dkt. 45). The filing of the amended Schedule C constitute a withdrawal of the Schedule C to which the trustee's objection is directed.

The court will issue a minute order.

70. [09-25462](#)-B-13J DOUGLAS/MARIAN STONE  
JT #1

HEARING - MOTION TO  
VALUE COLLATERAL OF GREEN  
TREE SERVICING, LLC  
4-6-09 [[10](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of creditor's claim secured by the second deed of trust on real property located at 1762 Donald Court, Yuba City, California 95993 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$178,000.00 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 \$230,583.00. Thus, the value of the collateral available to Green Tree Servicing, LLC on its second deed of trust is \$0.00.

The court will issue a minute order.

71. [09-23064](#)-B-13J RAYMUNDO/ARMIDA DIAZ HEARING - MOTION TO  
SAC #1 VALUE COLLATERAL OF STERLENT  
CREDIT UNION  
4-6-09 [[16](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of creditor's claim secured by a second deed of trust on real property located at 2682 Teal Drive, West Sacramento, California ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$200,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Evergreen Mortgage Co. with a balance of approximately \$288,225.00. Thus, the value of the collateral available to Sterlent Credit Union on its junior lien is \$0.00.

The court will issue a minute order.

72. [08-24467](#)-B-13J HENRY/VICTORIA FONTES HEARING - OBJECTION  
JPJ #3 BY TRUSTEE TO ALLOWANCE OF  
CLAIM NOS. 10 AND 11 OF BANK  
OF AMERICA MORTGAGE  
3-9-09 [[111](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim No. 10 filed September 2, 2008 by Bank of America Mortgage in the amount of \$89,943.89 (the "Claim") is disallowed except to the extent previously paid by the trustee.

The trustee provides evidence that the Claim is a duplicate of claim no. 11 on the court's claims register, filed by Bank of America. Both claims recite the same account number as the basis of the claim.

The court will issue a minute order.

73. [08-34267](#)-B-13J GEORGE/DAWN BARMES  
PGM #1

CONT. HEARING - MOTION  
TO CONFIRM DEBTORS' FIRST  
AMENDED PLAN  
1-27-09 [[17](#)]

CONT. FROM 3-10-09

**Tentative Ruling:** This matter continued without a briefing schedule from March 10, 2009 to be heard after the evidentiary hearing on debtors' motion to value the collateral of Harley-Davidson Credit Corp. (D.C. No. PGM-3; Dkt. 35). That motion to value was resolved by stipulation and order entered on April 10, 2009. (Dkt. 75). Pursuant to the stipulation, debtors and creditor agreed to fix the value of the 2005 Harley Davidson at \$13,000.00 as of the petition date, which amount shall be paid at an 8.0% interest rate in class 2. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

Creditor Harley-Davidson's objection is sustained, and the motion to confirm the amended plan filed January 27, 2009 is denied.

The court will issue a minute order.

74. [09-24369](#)-B-13J RALPH SNODGRASS

HEARING - MOTION  
TO VALUE COLLATERAL  
OF BANK OF AMERICA  
3-28-09 [[11](#)]

**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 April 7, 2009, the debtor filed a new motion to value the collateral of Bank of America which is addressed elsewhere on this calendar. The filing of the new motion to value collateral constitutes a withdrawal of the instant motion.

The court will issue a minute order.

75. [09-24369](#)-B-13J RALPH SNODGRASS

HEARING - MOTION TO  
VALUE COLLATERAL OF BANK  
OF AMERICA  
4-7-09 [[20](#)]

**Disposition Without Oral Argument:** The motion is continued to June 2, 2009 at 9:30 a.m. On or before May 5, 2009, the date of this hearing, the debtor shall serve the motion, its supporting papers, and notice of the continued hearing on Bank of America in the manner required by Fed. R. Bankr. P. 7004. The debtor shall also file the notice of the continued hearing with the court. Proof of service shall be filed within three court days thereafter. LBR 9014-1(e)(2). If the debtor fails to do any of the foregoing, the motion will be denied without prejudice.

The debtor failed to serve Bank of America in the manner required by Fed. R. Bankr. P. 7004.

The court will issue a minute order.

76. [09-23171](#)-B-13J DARRELL/WENDY HOUSTON  
JPJ #1

HEARING - TRUSTEE'S  
OBJECTION TO CONFIRMATION OF THE  
CHAPTER 13 PLAN AND CONDITIONAL  
MOTION TO DISMISS CASE  
4-8-09 [[16](#)]

**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 number of matters on this morning's three related calendars (154 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. Confirmation of the plan filed February 25, 2009 is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before May 19, 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.

77. [09-23271](#)-B-13J MICHAEL/CONSTANCE UNICK  
RMS #2

HEARING - OBJECTION TO  
MOTION TO VALUE COLLATERAL  
OF CERTIFICATE INVESTMENT FUND  
AND REQUEST FOR EVIDENTIARY  
HEARING  
3-11-09 [[19](#)]

**Tentative Ruling:** Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a

more explanatory Disposition After Oral Argument.

The court treats the objection as (1) an opposition to the attached motion to value Certificate Investment Funds' ("CIF") collateral and (2) an objection to confirmation based on CIF's view that the plan does not provide for its secured claim. The court will schedule the first issue, CIF's opposition to the attached motion to value, for a final evidentiary hearing on June 23, 2009 at 9:00 a.m. before the Honorable Richard T. Ford in courtroom 32 to determine the value of the real property located at 12711 Quince Lane, Wilton, CA 95693 ("Property") on the date of the filing of the petition. The second issue, the objection to confirmation, is continued to July 7, 2009 at 9:32 a.m. to be heard after the evidentiary hearing on debtors' motion to value. Confirmation of the plan depends, in part, on the success of the motion to value the Property.

On or before June 15, 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 June 15, 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 Motion to Value Collateral of Certificate Investment Funds." 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.

78. [09-23271](#)-B-13J MICHAEL/CONSTANCE UNICK  
RMS #3

HEARING - OBJECTION TO  
CONFIRMATION AND REQUEST THAT  
DEBTORS BE DENIED A DISCHARGE  
BY CERTIFICATE INVESTMENT FUND  
3-17-09 [25]

**Tentative Ruling:** Creditor Certificate Investment Funds' ("CIF") supplemental 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 number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated tentative ruling.

The supplemental objection is dismissed.

By this motion, CIF seeks a denial of debtors' discharge pursuant to 11 U.S.C. § 727(a)(4). That section does not apply in a chapter 13 case. 11 U.S.C. § 103(b).

The court will issue a minute order.

79. [09-23672](#)-B-13J IRENE ALMENDAREZ  
JPJ #1

HEARING - TRUSTEE'S  
OBJECTION TO CONFIRMATION OF THE  
CHAPTER 13 PLAN AND CONDITIONAL  
MOTION TO DISMISS CASE  
4-8-09 [[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 number of matters on this morning's three related calendars (154 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. Confirmation of the plan filed March 3, 2009 is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before May 19, 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.

80. [08-37673](#)-B-13J JOSE GONZALES  
PGM #1

CONT. HEARING - MOTION  
TO CONFIRM DEBTOR'S PLAN  
1-14-09 [[18](#)]

CONT. FROM 2-24-09

**Tentative Ruling:** This matter continued from February 24, 2009 without a briefing schedule. The matter was continued to be heard after the resolution of debtor's motion to value the collateral of the Patelco Credit Union, which motion was scheduled for an evidentiary hearing on April 27, 2009. The motion to value was resolved pursuant to an agreed order in which the parties fixed creditor Patelco's secured claim at \$2,300 with an interest rate of 6.0% and a monthly dividend of \$50.00. (Dkt. 69). Nothing further has been filed in this matter. Due to the number of matters on this morning's three related calendars (154 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 Patelco Credit Union's collateral is deemed withdrawn. Creditor Pateco Credit Union's objections are sustained. The trustee's objection is sustained, and the motion to confirm the plan filed December 12, 2008 is denied.

Debtors filed a stand alone motion to value Patelco Credit Union's collateral on January 16, 2009, which motion has been resolved by an agreed order.

The court will issue a minute order.

81. [08-37673](#)-B-13J JOSE GONZALES  
PGM #1  
CONT. HEARING - TRUSTEE'S  
COUNTER MOTION TO CONDITIONALLY  
DISMISS CASE  
2-6-09 [[39](#)]

CONT. FROM 2-24-09

**Tentative Ruling:** The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition and due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before May 19, 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.

82. [08-32174](#)-B-13J GLENN CHAPITAL  
TJW #2  
HEARING - OBJECTION  
TO CLAIM OF ROUNDUP FUNDING LLC  
3-30-09 [[51](#)]

**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 objection is overruled for procedural defects and, alternatively, on its merits. First, although the notice of hearing explains that written opposition to the objection is required no later than fourteen days prior to the hearing on this objection, debtor filed the objection only thirty-six days before the hearing, in derogation of LBR 3007-1(d)(1). Debtor, therefore, failed to provide parties in interest with sufficient notice of the objection. Second, the objection contains no legal argument and otherwise fails to articulate any legal grounds for disallowance of a claim in this case. LBR 9014-1(d)(5).

The court will issue a minute order.

83. [09-22674](#)-B-13J FROILAN RIVERA AND  
SL #2 YVONNE HERNANDEZ  
HEARING - MOTION TO  
VALUE COLLATERAL OF CITIFIANCIAL  
SERVICES, INC.  
3-24-09 [[12](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of creditor's claim secured by the second deed of trust on real property located at 3356 Calla Lily Way, Sacramento, California ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$322,000.00 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 \$326,815.00. Thus, the value of the collateral available to CitiFinancial on its second deed of trust is \$0.00.

The court will issue a minute order.

84. [08-36477](#)-B-13J MARTIN/ALMA NAVARRO  
SL #1

HEARING - MOTION TO  
VALUE COLLATERAL OF HFC  
(HOUSEHOLD FINANCE CORPORATION  
OF CALIFORNIA)  
3-25-09 [[16](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of creditor's claim secured by the second deed of trust on real property located at 280 Saint Lucia Way, Lincoln, California ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$287,000.00 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 \$328,196.59. Thus, the value of the collateral available to HFC (Household Finance Corporation) on its second deed of trust is \$0.00.

The court will issue a minute order.

85. [08-36577](#)-B-13J GRAHAM/LAURA SKINNER  
DBJ #2

HEARING - MOTION  
FOR HEARING ON CONFIRMATION OF  
SECOND AMENDED CHAPTER 13 PLAN  
3-17-09 [[37](#)]

**Tentative Ruling:** Due to the number of matters on this morning's three related calendars (154 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, and the motion to confirm the plan filed March 17, 2009 is denied.

The court will issue a minute order.

86. [08-36577](#)-B-13J GRAHAM/LAURA SKINNER DBJ #2 HEARING - TRUSTEE'S COUNTER MOTION TO CONDITIONALLY DISMISS CASE 4-17-09 [[51](#)]

**Tentative Ruling:** The trustee's countermotion 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 number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before May 19, 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.

87. [09-23577](#)-B-13J PAUL SHIRLEY JPJ #1 HEARING - OBJECTION TO CONFIRMATION OF THE CHAPTER 13 PLAN BY TRUSTEE AND CONDITIONAL MOTION TO DISMISS 4-8-09 [[21](#)]

**Disposition Without Oral Argument:** This matter was withdrawn by the moving party on April 29, 2009 and is removed from the calendar.

88. [09-21282](#)-B-13J THOMAS/APRIL GORDON ADS #2 HEARING - MOTION TO CONFIRM FIRST AMENDED CHAPTER 13 PLAN 3-20-09 [[22](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion is granted, and the amended plan filed March 20, 2009 will be confirmed.

The court will issue a minute order granting the motion. 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.

89. [09-22282](#)-B-13J KAREN BUCHANAN  
DBJ #3 HEARING - MOTION  
TO VALUE COLLATERAL OF  
GEORGE AND JAN HAVSTAD  
3-31-09 [[34](#)]

**Disposition Without Oral Argument:** This matter was withdrawn by the moving party on April 23, 2009 and is removed from the calendar.

90. [09-22982](#)-B-13J SCOTT/JENNIFER ALLEN HEARING - DEBTOR'S MOTION  
TO CONFIRM FIRST AMENDED  
CHAPTER 13 PLAN  
4-1-09 [[20](#)]

**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 April 3, 2009, the debtors filed a new motion to confirm the first amended plan which is addressed elsewhere on this calendar. The filing of the new motion to confirm constitutes a withdrawal of the instant motion to confirm.

The court will issue a minute order.

91. [09-22982](#)-B-13J SCOTT/JENNIFER ALLEN HEARING - MOTION TO  
REVALUE COLLATERAL OF RESPONDENT  
COUNTRYWIDE HOME LOANS  
4-1-09 [[24](#)]

**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 April 3, 2009, the debtors filed a new motion to value Countrywide Home Loans' collateral, real property located at 1995 Milan Way, Lincoln, California 95648 which is addressed elsewhere on this calendar. The filing of the new motion to value constitutes a withdrawal of the instant motion to value.

The court will issue a minute order.

92. [09-22982](#)-B-13J SCOTT/JENNIFER ALLEN HEARING - DEBTORS'  
MOTION TO CONFIRM FIRST  
AMENDED CHAPTER 13 PLAN  
4-3-09 [[36](#)]

**Tentative Ruling:** Due to the number of matters on this morning's three related calendars (154 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, and the motion to confirm the plan filed April 3, 2009 is denied.

The court will issue a minute order.

93. [09-22982](#)-B-13J SCOTT/JENNIFER ALLEN HEARING - TRUSTEE'S  
COUNTER MOTION TO CONDITIONALLY  
DISMISS CASE  
4-14-09 [[41](#)]

**Tentative Ruling:** The trustee's countermotion 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 number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before May 19, 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.

94. [09-22982](#)-B-13J SCOTT/JENNIFER ALLEN HEARING - DEBTORS'  
MOTION TO REVALUE COLLATERAL  
OF RESPONDENT COUNTRYWIDE  
HOME LOANS  
4-3-09 [[32](#)]

**Disposition Without Oral Argument:** The motion is continued to June 2, 2009 at 9:30 a.m. On or before May 5, 2009, the date of this hearing, the debtors shall serve the motion, its supporting papers, and notice of the continued hearing on Countrywide Home Loans in the manner required by Fed. R. Bankr. P. 7004. The debtors shall also file the notice of the continued hearing with the court. Proof of service shall be filed within three court days thereafter. LBR 9014-1(e)(2). If the debtor fails to do any of the foregoing, the motion will be denied without prejudice.

The court will issue a minute order.

95. [09-24885](#)-B-13J JAMES/HEATHER MORRIS HEARING - MOTION TO  
DBJ #1 VALUE COLLATERAL OF BANK  
OF AMERICA  
3-31-09 [[8](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of creditor's claim secured by the second deed of trust on real property located at 2975 Harden Avenue, Corning, California 96021 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, 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 Everhome Mortgage with a balance of approximately \$300,000.00. Thus, the value of the collateral available to Bank of America on its second deed of trust is \$0.00.

The court will issue a minute order.

96. [09-23086](#)-B-13J YVONNE ROJAS  
SNM #2

HEARING - MOTION TO  
VALUE COLLATERAL OF GREEN  
TREE SERVICING LLC  
4-3-09 [[32](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of creditor's claim secured by the second deed of trust on real property located at 820 Scottsdale Drive, Vacaville, California 95687 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$296,500.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Provident Funding Associates with a balance of approximately \$331,933.00. Thus, the value of the collateral available to Green Tree Servicing, LLC on its second deed of trust is \$0.00.

The court will issue a minute order.

97. [09-23086](#)-B-13J YVONNE ROJAS  
SNM #3

HEARING - MOTION TO  
CONFIRM DEBTORS' SECOND  
AMENDED PLAN  
4-3-09 [[28](#)]

**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 April 21, 2009, the debtor filed a third amended plan and motion to confirm. The filing of the third amended plan and motion to confirm constitute a withdrawal of the instant plan and motion. In addition, on April 21, 2009 the debtor filed a withdrawal of the motion. (Dkt. 46)

The court will issue a minute order.

98. [09-23086](#)-B-13J YVONNE ROJAS SNM #3 HEARING - TRUSTEE'S  
COUNTER MOTION TO CONDITIONALLY  
DISMISS CASE  
4-20-09 [[39](#)]

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

The countermotion is denied as moot.

On April 21, 2009, the debtor filed a third amended plan and motion to confirm.

The court will issue a minute order.

99. [09-24786](#)-B-13J WIL/BELLA AQUINO SDB #1 HEARING - DEBTORS' MOTION  
FOR ORDER VALUING COLLATERAL  
OF E\*TRADE  
4-2-09 [[12](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of creditor's claim secured by the second deed of trust on real property located at 823 Heron Drive, Suisun City, CA 94585 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$224,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by GMAC Mortgage with a balance of approximately \$336,511.00. Thus, the value of the collateral available to E\*Trade on its second deed of trust is \$0.00.

The court will issue a minute order.

100. [09-22688](#)-B-13J WILLIAM UWOGHIREN MET #1 HEARING - MOTION  
TO VALUE COLLATERAL  
OF CITIMORTGAGE  
4-1-09 [[15](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of creditor's claim secured by the second deed of trust on real property located at 270 Morrison Avenue,

Sacramento, California ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$194,000.00 on the date of the petition. The Property is encumbered by a first deed of trust also held by Citimortgage with a balance of approximately \$275,894.00. Thus, the value of the collateral available to Citimortgage on its second deed of trust is \$0.00.

The court will issue a minute order.

101. [09-22688](#)-B-13J WILLIAM UWOGHIREN  
JPJ #1

HEARING - TRUSTEE'S  
OBJECTION TO DEBTOR'S CLAIM  
OF EXEMPTIONS  
4-1-09 [[19](#)]

**Disposition Without Oral Argument:** The objection is overruled as moot.

On April 2, 2009, the debtor filed an amended Schedule C. (Dkt. 22). The filing of the amended Schedule C constitute a withdrawal of the Schedule C to which the trustee's objection is directed.

The court will issue a minute order.

102. [05-30391](#)-B-13J LAWRENCE/MARY ROSALES  
JPJ #2

HEARING - OBJECTION  
BY TRUSTEE TO ALLOWANCE OF  
CLAIM OF AMERICREDIT FINANCIAL  
SERVICES  
3-9-09 [[40](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim No. 21 filed June 16, 2008 by AmeriCredit Financial Services, Inc. in the amount of \$4,306.54 (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 December 28, 2005, and to file a government claim was February 20, 2006. The Claim was filed on June 16, 2008.

The court will issue a minute order.

103. [08-21191](#)-B-13J DAVID DILES  
JPJ #5

HEARING - OBJECTION  
BY TRUSTEE TO ALLOWANCE OF  
CLAIM NO. 12 OF USE CREDIT UNION  
3-9-09 [[86](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim No. 12 filed October 2, 2008 by USE Credit Union in the amount of \$29,444.09 (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 18, 2008, and to file a government claim was July 30, 2008. The Claim was filed on October 2, 2008.

The court will issue a minute order.

104. [09-24891](#)-B-13J HERBERTH BUSTILLO AND  
DBJ #1 ERICA BAEZ

HEARING - MOTION  
TO VALUE COLLATERAL OF  
WASHINGTON MUTUAL BANK  
3-31-09 [[12](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of creditor's claim secured by the second deed of trust on real property located at 7891 Valley Green Drive, Sacramento, California 95823 ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$123,000.00 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 \$223,000.00. Thus, the value of the collateral available to Washington Mutual Bank on its second deed of trust is \$0.00.

The court will issue a minute order.

105. [09-23693](#)-B-13J SHELLEY JONES  
JDL #1

HEARING - OBJECTIONS  
TO CONFIRMATION OF PROPOSED  
PLAN BY DOWNEY SAVINGS AND  
LOAN ASSOCIATION, F.A.  
4-2-09 [[18](#)]

**Tentative Ruling:** Due to the number of matters on this morning's three related calendars (154 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 Schools Financial Credit Union is deemed withdrawn. Creditor Downey Savings and Loan Association, F.A.'s ("Downey") objections are sustained in part, and confirmation of the plan filed March 3, 2009 is denied.

Debtor filed a stand alone motion to value Schools Financial Credit Union's collateral on March 18, 2009, which motion was granted by order entered on April 27, 2009.

Downey's first and third objections are sustained, and Downey's second objection is overruled without prejudice.

The court will issue a minute order.

106. [08-29095](#)-B-13J KELLY/CAROL RICHARDS HEARING - MOTION  
SDB #2 TO MODIFY CHAPTER 13 PLAN  
AFTER CONFIRMATION  
3-19-09 [[33](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed March 19, 2009 is confirmed.

The court will issue a minute order.

107. [09-24597](#)-B-13J BRUCE/HELEN WOOTEN HEARING - MOTION  
SAC #1 TO VALUE COLLATERAL OF  
CAPITAL ONE  
4-7-09 [[12](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$13,000.00 of Capital One's claim secured by a 2005 Honda Accord ("Collateral") is a secured claim, and the balance of such claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Collateral had a value of \$13,000.00 on the date of the petition.

The court will issue a minute order.

108. [08-37899](#)-B-13J JASON/KRISTIN SCOTT  
FF #1

HEARING - MOTION TO  
CONFIRM DEBTORS' FIRST AMENDED  
CHAPTER 13 PLAN  
3-10-09 [[32](#)]

**Tentative Ruling:** Due to the number of matters on this morning's three related calendars (154 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 GMAC Mortgage's collateral is denied without prejudice. The trustee's objection is sustained, and the motion to confirm the plan filed March 10, 2009 is denied.

Attached motions to avoid liens pursuant to section 522(f) or to value collateral are permitted by Paragraph 3(b) of General Order 05-03. Paragraph 8(a) of General Order 05-03, under which the debtors presently proceed, contains no provision for attached motions. Moreover, even if the attached motions were permitted here, debtors failed to file or serve a separate notice of either attached motion to value collateral, as required by Paragraph 3(b) of General Order 05-03.

The court will issue a minute order.

109. [08-37899](#)-B-13J JASON/KRISTIN SCOTT  
FF #1

HEARING - TRUSTEE'S  
COUNTER MOTION TO CONDITIONALLY  
DISMISS CASE  
4-20-09 [[42](#)]

**Tentative Ruling:** The trustee's countermotion 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 number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before May 19, 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.

110. [09-22806](#)-B-13J BRADLEY/CHARLOTTE THEURICH HEARING - TRUSTEE'S  
JPJ #1 OBJECTION TO CONFIRMATION OF  
THE CHAPTER 13 PLAN AND  
CONDITIONAL MOTION TO  
DISMISS CASE  
4-15-09 [[19](#)]

**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 number of matters on this morning's three related calendars (154 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 McMahans Furniture is denied without prejudice. The attached motion to value the collateral of CitiFinancial is denied without prejudice. The trustee's objections are sustained. Confirmation of the plan filed February 20, 2009 is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before May 19, 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.

Debtors failed to file or serve separate notices of the attached motions to value collateral as required by Paragraph 3(b) of General Order 05-03.

The court will issue a minute order.

111. [09-22608](#)-B-13J DIANE YONG CONT. HEARING - OBJECTION  
WGM #1 TO CONFIRMATION OF DEBTOR'S  
CHAPTER 13 PLAN BY JPMORGAN  
CHASE BANK, N.A.  
3-26-09 [[15](#)]

CONT. FROM 4-21-09

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

The objections is overruled as moot.

On April 28, 2009, the debtor filed an amended plan and a motion to confirm. The filing of the amended plan and motion to confirm constitute a withdrawal of the plan to which the creditor's objection is directed.

The court will issue a minute order.

112. [09-22608](#)-B-13J DIANE YONG  
WGM #1

CONT. HEARING - OPPOSITION  
TO DEBTOR'S MOTION TO VALUE  
COLLATERAL AND OBJECTION TO  
CONFIRMATION OF CHAPTER 13 PLAN  
BY JPMORGAN CHASE BANK, N.A.  
4-2-09 [[26](#)]

CONT. FROM 4-21-09

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

The objection is overruled without prejudice.

On April 6, 2009, debtor filed a stand alone motion to value JP Morgan Chase Bank's collateral, which motion is resolved elsewhere on this calendar. The attached motion to value JP Morgan Chase Bank's collateral to which the creditor's objection is directed has, therefore, been deemed withdrawn. The court considers the merits of creditor's objection as opposition to the stand alone motion to value and will address the opposition in its resolution of debtor's stand alone motion to value elsewhere on this calendar.

The court will issue a minute order.

113. [09-20917](#)-B-13J TIMOTHY/CHERYL LITTLE  
JT #2

HEARING - MOTION TO  
CONFIRM FIRST AMENDED  
CHAPTER 13 PLAN  
3-24-09 [[23](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion is granted, and the amended plan filed March 3, 2009 will be confirmed.

The court will issue a minute order granting the motion. 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.

114. [09-23233](#)-B-13J KELLY/KIMBERLY SNOWDEN  
SW #1

HEARING - OBJECTION  
TO CONFIRMATION OF PLAN  
BY GMAC  
4-17-09 [[18](#)]

**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. Nothing in this ruling constitutes confirmation of any plan. Debtors must seek confirmation by motion under ¶ 8(a) of G.O. 05-03.

The court will issue a minute order.

115. [09-20244](#)-B-13J MARIO/LIBERTY RUIZ  
MAF #1

HEARING - MOTIONS  
FOR ORDER CONFIRMING SECOND  
AMENDED CHAPTER 13 PLAN AND  
FOR ORDERS VALUING COLLATERAL  
3-16-09 [[32](#)]

**Tentative Ruling:** Due to the number of matters on this morning's three related calendars (154 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 EMC Mortgage Corporation's collateral is denied without prejudice. The attached motion to value National City Mortgage's collateral is denied without prejudice. The trustee's objections are sustained. Creditor Wells Fargo Bank's ("WFB") objections are sustained in part and overruled without prejudice in part. The motion to confirm the plan filed March 16, 2009 is denied.

Attached motions to avoid liens pursuant to section 522(f) or to value collateral are permitted by Paragraph 3(b) of General Order 05-03. Paragraph 8(a) of General Order 05-03, under which the debtors presently proceed, contains no provision for attached motions. Moreover, even if the attached motions were permitted here, debtors failed to file or serve a separate notice of either attached motion to value collateral, as required by Paragraph 3(b) of General Order 05-03.

WFB's first objection is sustained. WFB's second objection is overruled without prejudice.

The court will issue a minute order.

116. [09-20244](#)-B-13J MARIO/LIBERTY RUIZ  
MAF #1

HEARING - TRUSTEE'S  
COUNTER MOTION TO CONDITIONALLY  
DISMISS CASE  
4-20-09 [[42](#)]

**Tentative Ruling:** The trustee's countermotion 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 number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before May 19, 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.

117. [09-21845](#)-B-13J WILLIAM/MARY MCCALL HEARING - MOTION TO  
SAC #1 VALUE COLLATERAL OF WELLS FARGO  
3-26-09 [[21](#)]

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

The motion to value (D.C. No. SAC-1) was resolved by stipulation entered April 29, 2009 (Dkt. 39). This matter is dropped from the calendar.

118. [09-21845](#)-B-13J WILLIAM/MARY MCCALL CONT. HEARING - OBJECTION TO  
APN #1 CONFIRMATION OF CHAPTER 13  
PLAN AND TO THE MOTION TO  
VALUE COLLATERAL OF WELLS  
FARGO FINANCIAL  
3-26-09 [[27](#)]

CONT. FROM 4-21-09

**Tentative Ruling:** Due to the size of this morning's three related calendars (154 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 Wells Fargo Bank's ("WFB") collateral is deemed withdrawn. The attached motion to value Travis Credit Union's collateral is granted. \$6,000.00 of Travis Credit Union's claim secured by a 2001 Jeep Grand Cherokee ("Collateral") is a secured claim, and the balance of such claim is an unsecured claim. Creditor WFB's objection is sustained. Confirmation of the plan filed February 3, 2009 is denied.

Debtors filed a stand alone motion to value WFB's collateral on March 26, 2009, which motion was resolved pursuant to a stipulation and order entered on April 30, 2009.

In the absence of opposition, for the purposes of the Travis Credit Union motion to value, the Collateral had a value of \$6,000.00 on the date of the petition.

The court will issue a minute order.

119. [06-23951](#)-B-13J CHRISTOPHER/LORA CLARK  
SAC #1

HEARING - MOTION  
TO MODIFY CHAPTER 13 PLAN  
AFTER CONFIRMATION  
3-23-09 [[35](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed March 23, 2009 is confirmed.

The court will issue a minute order.

120. [09-21156](#)-B-13J WILLIAM/GWENDOLYN BARKER  
JT #1

HEARING - MOTION TO  
CONFIRM FIRST AMENDED  
CHAPTER 13 PLAN  
3-24-09 [[18](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The attached motion to value Citimortgage's collateral is deemed withdrawn. The attached motion to value Bank of the West's collateral is deemed withdrawn. The motion is granted, and the amended plan filed March 24, 2009 will be confirmed.

Debtor filed a stand alone motion to value Citimortgage's collateral on March 24, 2009, which motion was granted by order entered on April 24, 2009.

Debtor filed a stand alone motion to value Bank of the West's collateral on March 24, 2009, which motion was granted by order entered on April 24, 2009.

The court will issue a minute order granting the motion. 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.

121. [09-22956](#)-B-13J TERRY/PHYLLIS KINGSFORD  
JPJ #1

HEARING - TRUSTEE'S  
OBJECTION TO CONFIRMATION OF  
THE CHAPTER 13 PLAN AND  
CONDITIONAL MOTION TO  
DISMISS CASE  
4-15-09 [[16](#)]

**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 number of matters on this morning's three related calendars (154 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. Confirmation of the plan filed February 20, 2009 is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before May 19, 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.

122. [09-24160](#)-B-13J STEPHEN/SONIA CURTICE  
JPJ #1

HEARING - TRUSTEE'S  
OBJECTION TO CONFIRMATION OF  
THE CHAPTER 13 PLAN AND  
CONDITIONAL MOTION TO  
DISMISS CASE  
4-15-09 [[23](#)]

**Disposition Without Oral Argument:** The objection is overruled as moot and the conditional motion to dismiss is denied as moot because the bankruptcy case was converted to one under chapter 7 on April 20, 2009.

The court will issue a minute order.

123. [09-23967](#)-B-13J DAVID/VALERIE HINES  
JPJ #1

HEARING - TRUSTEE'S  
OBJECTION TO CONFIRMATION OF  
THE CHAPTER 13 PLAN AND  
CONDITIONAL MOTION TO  
DISMISS CASE  
4-15-09 [[17](#)]

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

The objections is overruled as moot.

On April 30, 2009, the debtors filed an amended plan and a motion to confirm. The filing of the amended plan and motion to confirm constitute

a withdrawal of the plan to which the trustee's objection is directed.

The court will issue a minute order.

124. [09-23278](#)-B-13J TONI GALEA  
RDW #1

HEARING - OBJECTION TO  
CONFIRMATION OF DEBTOR'S  
CHAPTER 13 PLAN BY AMERICAN  
GENERAL FINANCIAL SERVICES  
4-7-09 [[31](#)]

**Tentative Ruling:** Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated tentative ruling. Any party may at the hearing request a more explanatory Disposition After Oral Argument.

The court treats the objection as (1) an opposition to the attached motion to value American General's ("AG") collateral and (2) an objection to confirmation based on AG's view that the plan does not provide for its secured claim. The court will schedule the first issue, AG's opposition to the attached motion to value, for a final evidentiary hearing on June 23, 2009 at 9:00 a.m. before the Honorable Richard T. Ford in courtroom 32 to determine the value of the real property located at 11341 Iron Mountain Road, Redding, California 96003 ("Property") on the date of the filing of the petition. The second issue, the objection to confirmation, is continued to July 7, 2009 at 9:32 a.m. to be heard after the evidentiary hearing on debtor's motion to value. Confirmation of the plan depends, in part, on the success of the motion to value the Property.

On or before June 15, 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 June 15, 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 Motion to Value Collateral of American General." 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..."

As to the first issue, the court notes that the valuation of the Property on a prior motion to value the Property (Dkt. 16; Dkt. 44) is not binding in this matter because AG was not a party to that motion.

The court will issue a minute order.

125. [09-21390](#)-B-13J JOHN/DALE MASTERS  
SAC #1

HEARING - MOTION  
TO CONFIRM FIRST AMENDED  
CHAPTER 13 PLAN  
3-13-09 [[19](#)]

**Tentative Ruling:** In this instance, the court issues the following tentative ruling.

The motion to confirm the plan filed March 13, 2009 is denied.

Although no party in interest has objected to the motion, the court has an independent duty to determine whether the plan satisfies the requirements for confirmation. Chinichian v. Campolongo (In re Chinichian), 784 F.2d 1440, 1443-1444 (9th Cir. 1986) ("For a court to confirm a plan, each of the requirements of section 1325 must be present and the debtor has the burden of proving that each element has been met."), In re Lucas, 3 B.R. 252, 253 (Bankr. S.D. Cal. 1980) ("In order to confirm any Chapter 13 Plan, the court must be satisfied, by an independent analysis of the facts, that the plan meets all of the requirements of § 1325(a).").

Although the debtors and the Internal Revenue Service ("IRS") have agreed that the plan shall provide for the \$10,377.53 claim of the IRS in class 2 with an interest rate of 4.75%, the proposed plan provides for the IRS in class 3. The stipulated treatment does not constitute a nonmaterial modification that may be obtained by stipulation or a provision in the order confirming the plan. A motion to modify the plan is required.

The court will issue a minute order.

126. [09-21390](#)-B-13J JOHN/DALE MASTERS  
SAC #2

HEARING - MOTION  
TO VALUE COLLATERAL OF  
BANK OF AMERICA  
3-13-09 [[15](#)]

**Disposition Without Oral Argument:** This motion is unopposed. Due to the number of matters on this morning's three related calendars (154 matters), the court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of creditor's claim secured by the second deed of trust on real property located at 7500 Van Pooka Court, Somerset, California ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property 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 \$299,464.00. Thus, the value of the collateral available to Bank of America on its second deed of trust is \$0.00.

The court will issue a minute order.

127. [09-26980](#)-B-13J GARFIELD/SHERI SHELTON  
PLG #1

HEARING - DEBTORS' MOTION  
TO CONTINUE THE AUTOMATIC STAY  
AS TO ALL CREDITORS  
4-24-09 [[11](#)] O.S.T.

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(3) (motions set on shortened time). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.