

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Modesto, California

January 14, 2014 at 10:00 a.m.

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INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

Unless the otherwise stated, the court will prepare a civil minute order on each matter listed. If the moving party wants a more specific order, it should submit a proposed amended order to the court. In the event a party wishes to submit such an Order it needs to be titled "Amended Civil Minute Order."

If the moving party has received a response or is aware of any reason, such as a settlement, that a response may not have been filed, the moving party must contact Nancy Williams, the Courtroom Deputy, at (916) 930-4580 at least one hour prior to the scheduled hearing.

2. The court will not continue any short cause evidentiary hearings scheduled below.
3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.
4. If no disposition is set forth below, the matter will be heard as scheduled.

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1.	13-92100-D-13	ELISA JORDAN	MOTION FOR RELIEF FROM
	ADR-1		AUTOMATIC STAY
	OMEGA VENTURES VS.		12-12-13 [13]
	<b>Final ruling:</b>		

This case was dismissed on December 27, 2013. As a result the motion will be denied by minute order as moot. No appearance is necessary.

2.	13-90202-D-13	ERIC/TINA HANSEN	MOTION TO MODIFY PLAN
	CJY-2		12-2-13 [65]

**Final ruling:**

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is attached as Exhibit 2 to General Order 05-03. The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

3. 13-91902-D-13 HOWARD/SONDRA LAYNE  
RDG-1

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
12-9-13 [16]

4. 13-91903-D-13 GUSTAVO BARRAGAN  
MLP-1

MOTION TO AVOID LIEN OF  
INVESTMENT RETRIEVERS, INC.  
12-17-13 [23]

**Final ruling:**

This is the debtor's motion to avoid a judicial lien held by Investment Retrievers, Inc., securing a judgment in the amount of \$52,703. The motion will be denied for two reasons. First, the moving party failed to serve Investment Retrievers in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving party served Investment Retrievers (1) at a street address and a post office box address with no attention line; (2) through the attorney who obtained its judgment; and (3) by certified mail to its agent for service of process. The first method was insufficient because service on a corporation, partnership, or other unincorporated association must be to the attention of an officer, managing or general officer, or agent for service of process, whereas here, there was no attention line. The second method, although a good idea, see All Points Capital Corp. v. Meyer (In re Meyer), 373 B.R. 84, 94 (9th Cir. BAP 2007) (Klein, J., concurring), was not by itself sufficient. Id. at 92, citing Beneficial Cal., Inc. v. Villar (In re Villar), 317 B.R. 88, 92-94 (9th Cir. BAP 2004). The third method was insufficient because service was made by certified mail, whereas service on a corporation, partnership, or other unincorporated association that is not an FDIC-insured institution must be by first-class mail.

This distinction is important. Rule 7004(h), which governs service on an FDIC-insured institution, requires service by certified mail, whereas service on a corporation, partnership, or other unincorporated association must be by first-class mail. See preamble to Rule 7004(b). If service on a corporation, partnership, or other unincorporated association by certified mail were appropriate, the distinction in the manner of service, as between Rule 7004(h) and Rule 7004(b)(3), would be superfluous.

Second, the evidence is not sufficient to demonstrate that the moving party is entitled to the relief requested, as required by LBR 9014-1(d)(6). The debtor's motion and supporting declaration assign a value of \$67,000 to the property, and state there is a deed of trust against it securing a claim for \$120,000. The debtor has claimed an exemption of \$1.00 in the property; thus, given these figures, it appears the lien impairs the debtor's exemption. However, the \$67,000 value conflicts with the debtor's Schedule A, also submitted under oath, which states that the debtor owns the property in joint tenancy with an investor, and which lists the

value of the debtor's interest in the property as \$67,000. In other words, the value of the property as a whole, including the debtor's and his co-owner's interests, is \$134,000. Under the holding of All Points Capital v. Meyer, supra, "consensual liens against the entire fee must be netted out before computing the value of a debtor's fractional interest for purposes of avoiding judgment liens on which the co-owner is not liable." 373 B.R. at 85. There is no indication on the abstract of judgment that the debtor's co-owner is liable on the judgment. Thus, in this case, the calculation would be as follows:

Value of property	\$ 134,000
Consensual lien	<u>\$ 120,000</u>
Equity	\$ 14,000
Co-owner's interest	<u>\$ 7,000</u>
Debtor's interest	\$ 7,000
Exemption	<u>\$ 1</u>
Equity available to secure judgment lien	\$ 6,999

Under this calculation, a portion of the judgment lien, in the amount of \$45,704, would impair the debtor's exemption, and the lien would be avoidable to that extent; however, the lien would remain against the property in the amount of \$6,999. Thus, it appears the debtor is entitled to avoid the lien to some extent, but not in its entirety, as he has requested.

As a result of these service and evidentiary defects, the motion will be denied by minute order. No appearance is necessary.

5. 13-91903-D-13 GUSTAVO BARRAGAN MOTION TO AVOID LIEN OF  
MLP-2 INVESTMENT RETRIEVERS, INC.  
12-17-13 [28]

**Final ruling:**

This is the debtor's motion to avoid a judicial lien held by Investment Retrievers, Inc. The motion will be denied because the moving party failed to serve Investment Retrievers in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving party served Investment Retrievers (1) at a street address and a post office box address with no attention line; (2) through the attorney who obtained its judgment; and (3) by certified mail to its agent for service of process. The first method was insufficient because service on a corporation, partnership, or other unincorporated association must be to the attention of an officer, managing or general officer, or agent for service of process, whereas here, there was no attention line. The second method, although a good idea, see All Points Capital Corp. v. Meyer (In re Meyer), 373 B.R. 84, 94 (9th Cir. BAP 2007) (Klein, J., concurring), was not by itself sufficient. Id. at 92, citing Beneficial Cal., Inc. v. Villar (In re Villar), 317 B.R. 88, 92-94 (9th Cir. BAP 2004). The third method was insufficient because service was made by certified mail, whereas service on a corporation, partnership, or other unincorporated association that is not an FDIC-insured institution must be by first-class mail.

This distinction is important. Rule 7004(h), which governs service on an FDIC-insured institution, requires service by certified mail, whereas service on a corporation, partnership, or other unincorporated association must be by first-class mail. See preamble to Rule 7004(b). If service on a corporation, partnership, or

other unincorporated association by certified mail were appropriate, the distinction in the manner of service, as between Rule 7004(h) and Rule 7004(b)(3), would be superfluous.

As a result of these service defects, the motion will be denied by minute order. No appearance is necessary.

6. 13-91903-D-13 GUSTAVO BARRAGAN  
MLP-3

MOTION TO VALUE COLLATERAL OF  
R.O. INVESTMENTS, INC.  
12-17-13 [34]

**Final ruling:**

This is the debtor's motion to value collateral of R.O. Investments, Inc. The motion will be denied because the moving party failed to serve R.O. Investments in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving party served R.O. Investments (1) at a street address with no attention line; (2) by certified mail to Fernando Valladoled as its agent for service of process; and (3) by certified mail to the attention of an officer, managing or general agent, or agent for service of process. The first method was insufficient because service on a corporation, partnership, or other unincorporated association must be to the attention of an officer, managing or general officer, or agent for service of process, whereas here, there was no attention line.

The second method was insufficient because where service is made on a corporation to the attention of an agent for service of process, it must be an agent authorized by appointment or by law to receive service of process (Fed. R. Bankr. P. 7004(b)(3)), whereas the California Secretary of State's office shows R.O. Investments as a suspended corporation.<sup>1</sup> Finally, the second and third methods were insufficient because service was made by certified mail, whereas service on a corporation, partnership, or other unincorporated association that is not an FDIC-insured institution must be by first-class mail.

This distinction is important. Rule 7004(h), which governs service on an FDIC-insured institution, requires service by certified mail, whereas service on a corporation, partnership, or other unincorporated association must be by first-class mail. See preamble to Rule 7004(b). If service on a corporation, partnership, or other unincorporated association by certified mail were appropriate, the distinction in the manner of service, as between Rule 7004(h) and Rule 7004(b)(3), would be superfluous.

As a result of these service defects, the motion will be denied by minute order. No appearance is necessary.

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<sup>1</sup> Under California law, special rules apply to service on a corporation that has forfeited its charter or right to do business. See Cal. Civ. Proc. Code § 416.20(a) & (b), Cal. Corp. Code § 2011(b). It does not appear those rules were complied with here.

7. 13-92005-D-13 SHANON STROUD MOTION TO VALUE COLLATERAL OF  
SDM-1 MDSOSFIRST  
11-19-13 [8]

8. 08-92106-D-13 TIMOTHY/BONITA HEARST MOTION TO VALUE COLLATERAL OF  
JDP-1 GMAC MORTGAGE, LLC  
11-26-13 [65]

**Final ruling:**

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of GMAC Mortgage, LLC at \$0.00, pursuant to § 506(a) of the Bankruptcy Code. The creditor's claim is secured by a junior deed of trust on the debtors' residence and the amount owed on the senior encumbrance exceeds the value of the real property. No timely opposition has been filed and the relief requested in the motion is supported by the record. As such, the court will grant the motion and set the amount of GMAC Mortgage, LLC's secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

9. 12-91106-D-13 PETER TOMAINO MOTION FOR RELIEF FROM  
CJY-2 AUTOMATIC STAY  
PETER TOMAINO VS. 12-10-13 [42]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The debtor requests relief from stay to allow him to proceed in the state court with his marital dissolution proceeding and the relief requested in the motion is supported by the record. As such the court will grant the motion for relief from stay and allow the debtor to proceed in state court with his marital dissolution proceeding. Moving party is to submit an appropriate order. No appearance is necessary.

10. 12-91807-D-13 TAMARA TOMAINO MOTION FOR RELIEF FROM  
SSA-2 AUTOMATIC STAY  
TAMARA TOMAINO VS. 12-10-13 [43]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The debtor requests relief from stay to allow her to proceed in the state court with her marital dissolution proceeding and the relief requested in the motion is supported by the record. As such the court will grant the motion for relief from stay and allow the debtor to proceed in state court with her marital dissolution proceeding. Moving party is to submit an appropriate order. No appearance is necessary.

11. 10-92309-D-13 KEVIN/JANET GARVIN MOTION TO MODIFY PLAN  
CJY-2 11-18-13 [78]

**Final ruling:**

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is attached as Exhibit 2 to General Order 05-03. The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

12. 13-91809-D-13 SHANTEL HERNANDEZ OBJECTION TO DEBTOR'S CLAIM OF  
RDG-2 EXEMPTIONS  
11-22-13 [24]

**Final ruling:**

This case was dismissed on December 23, 2013. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

13. 09-91714-D-13 RITA ROSS MOTION FOR RELIEF FROM  
TJS-1 AUTOMATIC STAY AND/OR MOTION  
JPMORGAN CHASE BANK, N.A. FOR ADEQUATE PROTECTION  
VS. 12-10-13 [88]

14. 11-93117-D-13 TIMOTHY/MELISSA FAGNANI MOTION FOR CONSENT TO ENTER  
PPR-1 INTO LOAN MODIFICATION  
AGREEMENT  
12-3-13 [24]

**Final ruling:**

This is the motion of Bayview Loan Servicing, LLC, for an order permitting the debtors to enter into a loan modification agreement. The motion will be denied because, although the loan modification would affect the debtors' budget, and thus, would likely impact the debtors' plan, the moving party served only the debtors, their attorney, and the chapter 13 trustee, and failed to serve any of the other creditors.

As a result of this service defect, the motion will be denied, and the court need not consider the issues raised by the trustee at this time. The motion will be denied by minute order. No appearance is necessary.

15. 13-92023-D-13 MAURICE MOODY  
FF-1

MOTION TO VALUE COLLATERAL OF  
SPRINGLEAF FINANCIAL SERVICES,  
INC.  
12-3-13 [9]

**Final ruling:**

This is the debtor's motion to value collateral of Springleaf Financial Services, Inc. ("Springleaf"). The motion will be denied because the moving party failed to serve Springleaf in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving party served Springleaf (1) by certified mail to the attention of an officer, managing/general agent, or agent for service of process; (2) by certified mail to its registered agent for service of process; and (3) by first-class mail to a street address, with no attention line. The first and second methods were insufficient because service was made by certified mail, whereas service on a corporation, partnership, or other unincorporated association that is not an FDIC-insured institution must be by first-class mail.

This distinction is important. Rule 7004(h), which governs service on an FDIC-insured institution, requires service by certified mail, whereas service on a corporation, partnership, or other unincorporated association must be by first-class mail. See preamble to Rule 7004(b). If service on a corporation, partnership, or other unincorporated association by certified mail were appropriate, the distinction in the manner of service, as between Rule 7004(h) and Rule 7004(b)(3), would be superfluous.

The third method was insufficient because service on a corporation must be to the attention of an officer, managing or general agent, or agent for service of process, whereas here, there was no attention line.

As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.

16. 13-91024-D-13 BRUCE VELTHOEN  
BSH-10

CONTINUED MOTION TO CONFIRM  
PLAN  
11-5-13 [126]

**Final ruling:**

This is the debtor's motion to confirm an amended chapter 13 plan. The hearing was continued to allow the debtor to respond to the court's tentative ruling, in which the court indicated it intended to deny the motion because it had earlier denied the debtor's motion to value the collateral of CitiMortgage, Inc., and the debtor had filed no new motion to value that collateral.

On January 3, 2014, the debtor filed a reply, indicating that he had filed a subsequent motion to value the collateral of CitiMortgage, which had been granted. The debtor is correct. His subsequent motion was mistakenly docketed as a motion to value collateral of Green Tree Servicing, but it was in fact a motion to value collateral of CitiMortgage, and was served on CitiMortgage. That motion, DC BSH-9, was granted by minute order dated December 3, 2013. (The minute order mistakenly referred to Green Tree Servicing; an amended minute order will be issued referring to CitiMortgage.)

But for the debtor's apparent failure to obtain an order valuing the collateral of CitiMortgage, about which the court was incorrect, the court was prepared to grant the motion to confirm an amended plan. The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the amended plan, and shall use the form of order which is attached as Exhibit 2 to General Order 05-03. The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

17. 11-92328-D-13 DALE/GLORIA BOUCHER  
PLG-6

CONTINUED OBJECTION TO CLAIM OF  
DR. ROBIN R. HINCHMAN C/O LAW  
OFFICES OF MICHAEL LINN, CLAIM  
NUMBER 11  
8-15-13 [90]

**Final ruling:**

The court finds that a hearing will not be helpful and is not necessary. This is debtors' objection to the claim of Dr. Robin Hinchman (the "claimant") for chiropractic services rendered to debtor Gloria Boucher (the "debtor") following a slip-and-fall accident in Ross Stores. The claim is in the amount of \$4,086.59. The debtors do not object to the amount of the claim, but only to its secured status. The claimant has filed opposition, and the hearing has been continued to permit both parties to supplement the record, which they have done. For the following reasons, the objection will be overruled.

The sole question presented in this objection is whether any of the funds debtor Gloria Boucher received in settlement of her claim against Ross Stores, a total of \$20,268, against which funds the claimant had a medical lien, remained in the debtors' possession or under their control at the time they filed this chapter 13 case, on June 29, 2011, or whether the funds had all been spent by that time. The debtors originally supported their objection only with the debtor's testimony that "[she] had to spend the entire amount of the proceeds on various medical expenses related to my two sons' medical injuries and health problems before [the debtors] filed the bankruptcy,"<sup>1</sup> which she reiterated as follows: "On the date of filing, I had \$2,058.00 in my bank account, none of which was part of the insurance proceeds. Again, the entire amount of the proceeds from the settlement was spent on medical expenses for my two sons prior to the date of filing."<sup>2</sup> The court found in its initial tentative ruling on the objection that this testimony was conclusory in nature, and unsupported by documentary evidence that apparently exists but that the debtors had not provided.

The debtor's supplemental declaration, filed after the court issued its original tentative ruling, revealed that her original testimony had not been entirely accurate. In the supplemental declaration, she testified the entire amount of the settlement proceeds were spent on medical expenses related to her sons' injuries and health problems and to pay off one son's traffic tickets (a total of \$3,361), to settle two third-party claims against one son (a total of \$3,355), and to pay five of the debtors' mortgage payments (for the four for which she has provided receipts, a total of \$5,211). The debtors submitted copies of receipts for cash payments and cashier's checks evidencing these larger payments, although many of the receipts for smaller amounts, as the claimant points out, predate the debtor's receipt of the settlement funds.

In response, the claimant and/or her attorney prepared a meticulous analysis of the debtor's testimony and receipts. Having reviewed the debtor's fairly comprehensive response, together with the evidence the claimant subpoenaed from The Living Center and the two declarations of its admissions coordinator, and the claimant's response to the debtor's response, the court finds that substantial questions remain as to whether the debtor in fact made payments to The Living Center in 2011, a total of \$4,000 as she claims, and as to whether she submitted an altered receipt, as the claimant asserts, with the figure "\$142.40" turned into "\$1,142.40." On the other hand, it is clear the debtor spent substantial sums in cash for expenses of her sons and for the debtors' mortgage payments in the months after she received the settlement proceeds and before the bankruptcy case was filed. Although the debtor has not produced receipts in sufficient dollar amounts to account for all the settlement proceeds, the court does not find that to be necessary, and does not find it necessary to parse the evidence and make specific dollar deductions from the original \$20,268 for every dollar for which the debtor has been unable provide a receipt, as the claimant would like.

Considering that money is fungible, that the debtors had other sources of funds when this case was filed and during the preceding six months (self-employment for the debtor and employment for her husband), and that they undoubtedly paid their various expenses and their sons' expenses from those sources, as well as from the settlement proceeds, the court finds that the sort of tracing the claimant would like to see is likely impossible. The debtor has documented that she spent fairly large amounts of cash in the months after she received the settlement funds, at least \$11,927 as described above (\$3,361 + \$3,355 + \$5,211). There is no evidence the debtor re-deposited any of the settlement funds, and the claimant elected not to proceed with her subpoena for additional bank statements, from which she might have located any re-deposits, after the court denied the debtors' motion to quash. The bank statements the debtors have submitted for the months immediately preceding the filing of this case and including the filing date make clear that the only funds in the account as of the petition date derived from child support paid to the debtor. In short, the court finds it unlikely that any of the settlement funds for which the debtor has not provided receipts still remained unspent as of the filing date, five months after they were received.

The court is mindful the debtor's testimony in this claim objection proceeding has been conflicting, and in some regards, has created substantial questions as to her credibility. The debtor testifies the discrepancies were "just due to oversight," and not to "any intent to mislead or hide evidence."<sup>3</sup> The court finds at the very least that the debtor did not take seriously the fact that she was signing her original declaration under oath, and thus, had a responsibility to be sure, to the best of her ability, it was complete and accurate. However, the question here is not whether the debtor was entirely truthful, and if not, why not, and it is not whether the debtor spent the settlement funds properly or improperly, but only whether any of the settlement funds remained as of the date the debtors' petition was filed.<sup>4</sup> The court is convinced, despite the discrepancies in the debtor's various declarations, that the funds were spent during the six months prior to the filing. Accordingly, the objection will be sustained by minute order. No appearance is necessary.

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1 G. Boucher Decl., filed Aug. 15, 2013, at 3:8-10.

2 Id. at 3:15-17.

3 G. Boucher Supp. Decl., filed Oct. 22, 2013, at 3:3-4.

4 The court is aware the claimant has raised, in her most recent response, questions about the accuracy of the answers in the debtors' Statement of Financial Affairs, in light of her testimony in this claim objection matter. Again, those issues are not at stake in the claim objection; as the court has previously emphasized, the only question is whether any of the funds in which the claimant had a medical lien remained with the debtors as of the petition date.

18. 13-91931-D-13 JERROD/GINA MELLO MOTION TO VALUE COLLATERAL OF  
SSA-2 FLAGSTAR BANK  
11-21-13 [15]

**Final ruling:**

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Flagstar Bank at \$0.00, pursuant to § 506(a) of the Bankruptcy Code. The creditor's claim is secured by a junior deed of trust on the debtors' residence and the amount owed on the senior encumbrance exceeds the value of the real property. No timely opposition has been filed and the relief requested in the motion is supported by the record. As such, the court will grant the motion and set the amount of Flagstar Bank's secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

19. 09-91034-D-13 GERI ROTHSTEIN MOTION TO MODIFY PLAN  
CJY-5 12-10-13 [65]

20. 09-91242-D-13 ROBERTO/CELIA SILVA MOTION TO VALUE COLLATERAL OF  
JDP-1 BANK OF THE WEST  
12-4-13 [45]

**Final ruling:**

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Bank of the West at \$0.00, pursuant to § 506(a) of the Bankruptcy Code. The creditor's claim is secured by a junior deed of trust on the debtors' residence and the amount owed on the senior encumbrance exceeds the value of the real property. No timely opposition has been filed and the relief requested in the motion is supported by the record. As such, the court will grant the motion and set the amount of Bank of the West's secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

21. 13-92043-D-13 FLORIN/CORNELIA BOARU MOTION TO AVOID LIEN OF PNC  
JDP-1 EQUIPMENT FINANCE, LLC  
11-26-13 [11]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The court finds the judicial lien described in the motion impairs an exemption to which the debtors are entitled. As a result, the court will grant the debtors' motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

22. 13-92043-D-13 FLORIN/CORNELIA BOARU MOTION TO AVOID LIEN OF  
JDP-2 AMERICAN EXPRESS BANK, FSB  
11-26-13 [16]

**Final ruling:**

This is the debtors' motion to avoid a judicial lien held by American Express Bank, FSB. The court is not prepared to consider the motion at this time because the proof of service does not state the date of service or the date of execution. The court will continue the hearing to January 28, 2014, at 10:00 a.m., the moving parties to file a corrected proof of service no later than January 16, 2014. The hearing will be continued by minute order. No appearance is necessary.

23. 13-91744-D-13 RICARDO MORALES OBJECTION TO DEBTOR'S CLAIM OF  
RDG-2 EXEMPTIONS  
11-15-13 [19]

**Final ruling:**

This is the trustee's objection to the debtor's claim of exemptions. The trustee objected on the basis that the debtor had claimed funds in his bank accounts as exempt under a statute that does not apply. On December 17, 2013, the debtor filed an amended schedule of exemptions on which he claimed the funds in his bank accounts as exempt under a different statute. As a result of the filing of the amended Schedule C, the trustee's objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

24. 13-91745-D-13 DOMINGO RODRIGUEZ AND CONTINUED MOTION TO VALUE  
TOG-1 VIRGINIA LOPEZ COLLATERAL OF BANK OF AMERICA,  
N.A.  
10-11-13 [9]

**Final ruling:**

The hearing on this motion is continued to January 28, 2014 at 10:00 a.m. No appearance is necessary on January 14, 2014.

25. 12-91246-D-13 BARRY/ELIZABETH WORTHAM MOTION TO APPROVE LOAN  
CJY-7 MODIFICATION  
12-17-13 [120]

26. 13-91849-D-13 YVONNE HACK MOTION TO VALUE COLLATERAL OF  
PLG-1 CITIBANK, N.A.  
12-6-13 [26]

**Final ruling:**

The matter is resolved without oral argument. This is the debtor's motion to value the secured claim of Citibank, N.A. at \$0.00, pursuant to § 506(a) of the Bankruptcy Code. The creditor's claim is secured by a junior deed of trust on the debtor's residence and the amount owed on the senior encumbrance exceeds the value of the real property. No timely opposition has been filed and the relief requested in the motion is supported by the record. As such, the court will grant the motion and set the amount of Citibank, N.A.'s secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

27. 09-91951-D-13 LARRY/LOUANNE HOFFMANN MOTION TO VALUE COLLATERAL OF  
JDP-1 BANK OF AMERICA, N.A.  
11-27-13 [76]

**Final ruling:**

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Bank of America, N.A. at \$0.00, pursuant to § 506(a) of the Bankruptcy Code. The creditor's claim is secured by a junior deed of trust on the debtors' residence and the amount owed on the senior encumbrance exceeds the value of the real property. No timely opposition has been filed and the relief requested in the motion is supported by the record. As such, the court will grant the motion and set the amount of Bank of America, N.A.'s secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

28. 09-92051-D-13 EDGAR/TERESA HUGHES MOTION TO VALUE COLLATERAL OF  
JDP-1 BANK OF THE WEST  
12-11-13 [45]

**Final ruling:**

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Bank of the West at \$0.00, pursuant to § 506(a) of the Bankruptcy Code. The creditor's claim is secured by a junior deed of trust on the debtors' residence and the amount owed on the senior encumbrance exceeds the value of the real property. No timely opposition has been filed and the relief requested in the motion is supported by the record. As such, the court will grant the motion and set the amount of Bank of the West's secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

29. 12-91851-D-13 JOHN/EILEEN SANCHEZ MOTION TO MODIFY PLAN  
RLF-4 12-6-13 [59]

30. 10-90154-D-13 ROBERT/DENNELL CALLAGHER MOTION TO MODIFY PLAN  
SDM-6 11-18-13 [164]

**Final ruling:**

This is the debtors' motion to confirm a sixth modified plan. On November 26, 2013, the debtors filed a seventh modified plan. As a result of the filing of the seventh modified plan, this motion is moot. The motion will be denied as moot by minute order. No appearance is necessary.

31. 10-90154-D-13 ROBERT/DENNELL CALLAGHER MOTION TO MODIFY PLAN  
SDM-7 11-26-13 [168]

**Final ruling:**

This is the debtors' motion to confirm a modified plan. The motion will be denied for the following reasons: (1) with one exception, the moving parties failed to serve any of the creditors filing claims in this case at the addresses on their proofs of claim, as required by Fed. R. Bankr. 2002(g); (2) the moving parties failed to serve the two creditors requesting special notice in this case at their designated addresses, as required by Fed. R. Bankr. P. 2002(g); (3) the moving parties failed to serve the chapter 13 trustee and the United States Trustee; (4) the moving parties failed to serve the IRS at its address on the Roster of Governmental Agencies, as required by LBR 2002-1; (5) the notice of hearing does not state the location of the courthouse where the hearing will be held, as required by LBR 9014-1(d)(2); (6) the moving parties failed to file the proposed plan, but merely attached it as an exhibit to their declaration; and (7) the proof of service is not signed under oath, as required by 28 U.S.C. § 1746. Instead, the declarant testifies under oath only that she is over 18 years old and not a party to the case; the remainder of the declaration, including the fact and manner of service, is merely "certified," not signed under oath. Finally, the proof of service does not state the date of service.

As a result of these service and notice defects, the motion will be denied by minute order. No appearance is necessary.

32. 13-91554-D-13 ROBERT/ELISSA HART  
TPH-3

MOTION TO CONFIRM PLAN  
11-11-13 [40]

**Final ruling:**

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons. First, the moving parties failed to serve Credit One Bank, listed on their Schedule F, as required by Fed. R. Bankr. P. 2002(b). The debtors listed this creditor on their Schedule F as having an unknown address (although they did list a zip code), whereas it is unlikely the debtors are unable to locate an address for this FDIC-insured institution. Second, the proof of service is not signed under oath, as required by 28 U.S.C. § 1746. Instead, the declarant testifies under oath only that she is over 18 years old and not a party to the case; the remainder of the declaration, including the fact and manner of service, is merely "certified," not signed under oath.

As a result of these service defects, the motion will be denied, and the court need not reach the issues raised by the trustee at this time. The motion will be denied by minute order. No appearance is necessary.

33. 12-92056-D-13 DAVID/NIKKOL FREDIANI  
TBC-3

MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF THE BANKRUPTCY  
CENTER FOR MICHAEL R. GERMAIN,  
DEBTORS' ATTORNEY(S), FEE:  
\$5,000.00, EXPENSES: \$290.62  
12-17-13 [52]

**Final ruling:** The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

34. 09-90260-D-13 BOBBY/LOREA HAZLEWOOD  
CJY-1

MOTION TO MODIFY PLAN  
12-5-13 [96]

**Final ruling:**

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is attached as Exhibit 2 to General Order 05-03. The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

35. 12-90060-D-13 SUSAN CLINDANIEL-HOBBS  
JAD-2

MOTION TO AVOID LIEN OF  
CITIBANK (SOUTH DAKOTA), N.A.  
11-22-13 [34]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The court finds the judicial lien described in the motion impairs an exemption to which the debtors are entitled. As a result, the court will grant the debtor's motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

36. 10-92363-D-13 MARBITO/MYRNA MANDE MOTION TO MODIFY PLAN  
CJY-3 11-14-13 [88]

37. 13-91563-D-13 CONNIE CAMPBELL CONTINUED MOTION TO VALUE  
BPC-1 COLLATERAL OF JPMORGAN CHASE  
BANK, N.A.  
10-11-13 [15]

**Final ruling:**

**The hearing on this motion is continued to January 28, 2014 at 10:00 a.m. No appearance is necessary on January 14, 2014.**

38. 13-91563-D-13 CONNIE CAMPBELL CONTINUED OBJECTION TO  
RCO-1 CONFIRMATION OF PLAN BY  
JPMORGAN CHASE BANK, N.A.  
10-22-13 [22]

**Final ruling:**

**The hearing on this objection is continued to January 28, 2014 at 10:00 a.m. No appearance is necessary on January 14, 2014.**

39. 09-92765-D-13 NORBERTO MAZORRA-PEREZ MOTION TO DISMISS ADVERSARY  
13-9036 AND ADRIANA LLL-1 PROCEEDING  
MAZORRA-PEREZ ET AL V. BANK OF 11-21-13 [7]  
AMERICA N.A.

**Final ruling:**

**This is the motion of defendant Bank of America to dismiss this adversary proceeding. On December 26, 2013, after the motion was filed, the adversary proceeding was dismissed by stipulation of the parties. Accordingly, this matter will be removed from calendar.**

40. 10-90569-D-13 ELLIS/JUDITH JOHNSON MOTION TO INCUR DEBT  
CJY-2 12-18-13 [42]
41. 13-91872-D-13 DENNIS/LORETTA BLOYED OBJECTION TO CONFIRMATION OF  
RDG-3 PLAN BY RUSSELL D. GREER  
12-9-13 [24]
42. 13-91475-D-13 JAIME MUNGUIA CONTINUED MOTION TO VALUE  
TOG-1 COLLATERAL OF ROGELIO LUNA  
9-24-13 [45]

**Final ruling:**

**This case was dismissed on October 29, 2013. As a result the motion will be denied by minute order as moot. No appearance is necessary.**

43. 13-91475-D-13 JAIME MUNGUIA CONTINUED MOTION TO VALUE  
TOG-3 COLLATERAL OF MELVIN AND  
VICTORIA MYERS  
9-24-13 [50]

**Final ruling:**

**This case was dismissed on October 29, 2013. As a result the motion will be denied by minute order as moot. No appearance is necessary.**

44. 09-90977-D-13 DANIEL/RONDA KNIGHT CONTINUED MOTION TO MODIFY PLAN  
CJY-1 9-25-13 [67]

45. 10-94582-D-13 JANEY JEROME MOTION TO VALUE COLLATERAL OF  
JDP-1 OCEAN 18, LLC  
11-18-13 [38]

**Final ruling:**

The matter is resolved without oral argument. This is the debtor's motion to value the secured claim of Ocean 18, LLC at \$0.00, pursuant to § 506(a) of the Bankruptcy Code. The creditor's claim is secured by a junior deed of trust on the debtor's residence and the amount owed on the senior encumbrance exceeds the value of the real property. No timely opposition has been filed and the relief requested in the motion is supported by the record. As such, the court will grant the motion and set the amount of Ocean 18, LLC's secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

46. 13-91482-D-13 CHRISTOPHER KAPPEMEYER MOTION TO CONFIRM PLAN  
PGM-2 11-13-13 [45]

47. 09-93188-D-13 RICHARD/JANICE FREITAS MOTION TO MODIFY PLAN  
CJY-1 12-5-13 [51]

**Final ruling:**

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is attached as Exhibit 2 to General Order 05-03. The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

48. 09-93188-D-13 RICHARD/JANICE FREITAS MOTION TO VALUE COLLATERAL OF  
JDP-1 BANK OF AMERICA, N.A.  
12-3-13 [47]

**Final ruling:**

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Bank of America, N.A. at \$0.00, pursuant to § 506(a) of the Bankruptcy Code. The creditor's claim is secured by a junior deed of trust on the debtors' residence and the amount owed on the senior encumbrance exceeds the value of the real property. No timely opposition has been filed and the relief requested in the motion is supported by the record. As such, the court will grant the motion and set the amount of Bank of America, N.A.'s secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

49. 11-90090-D-13 JAMES/MELANIE DEAN MOTION TO MODIFY PLAN  
CJY-5 12-5-13 [79]

**Final ruling:**

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is attached as Exhibit 2 to General Order 05-03. The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

50. 12-91390-D-13 JESUS ARTEAGA AND ELIUT CONTINUED MOTION TO APPROVE  
TOG-6 AGUIRRE LOAN MODIFICATION  
10-17-13 [36]

51. 13-91890-D-13 CAROLE ANDERSON OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D. GREER  
12-9-13 [15]

52. 10-91693-D-13 SEAN/MICHELLE COOLEY MOTION TO VALUE COLLATERAL OF  
SSA-4 REAL TIME RESOLUTIONS, INC.  
11-20-13 [97]

**Final ruling:**

**This matter has been resolved by stipulated order filed December 23, 2013. The matter will be removed from calendar.**

53. 09-91495-D-13 RODERICK/MARIE COUNTRYMAN CONTINUED MOTION TO SELL  
CJY-1 11-20-13 [176]

54. 10-93798-D-13 DEBRA MITCHELL MOTION TO VALUE COLLATERAL OF  
JDP-1 PARK PLACE SECURITIES, INC.  
12-11-13 [36]

**Final ruling:**

**The matter is resolved without oral argument. This is the debtor's motion to value the secured claim of Park Place Securities, Inc. at \$0.00, pursuant to § 506(a) of the Bankruptcy Code. The creditor's claim is secured by a junior deed of trust on the debtor's residence and the amount owed on the senior encumbrance exceeds the value of the real property. No timely opposition has been filed and the relief requested in the motion is supported by the record. As such, the court will grant the motion and set the amount of Park Place Securities, Inc.'s secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.**

55. 13-91935-D-13 EMILIO REBOLLEDO AND OBJECTION TO CONFIRMATION OF  
RDG-1 MARIA FERNANDEZ PLAN BY RUSSELL D. GREER  
12-20-13 [21]

56. 11-90256-D-13 LOUIS/LYNDA SILVIA MOTION TO RECONSIDER ORDER  
JBR-06 DENYING MOTION TO APPROVE SHORE  
SALE  
12-31-13 [78]
57. 13-91970-D-13 JEAN VAUGHAN OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D. GREER  
12-20-13 [15]
58. 13-91975-D-13 ANDRES/IRMA SEPULVEDA OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D. GREER  
12-20-13 [28]