

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto II
Hearing Date: Thursday, February 1, 2018
Place: Department B - Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions. If the parties stipulate to continue the hearing on the matter or agree to resolve the matter in a way inconsistent with the final ruling, then the court will consider vacating the final ruling only if the moving party notifies chambers before 4:00 p.m. (Pacific time) at least one business day before the hearing date: Department A-Kathy Torres (559)499-5860; Department B-Jennifer Dauer (559)499-5870. If a party has grounds to contest a final ruling under FRCP 60(a)(FRBP 9024) because of the court's error ["a clerical mistake (by the court) or a mistake arising from (the court's) oversight or omission"] the party shall notify chambers (contact information above) and any other party affected by the final ruling by 4:00 p.m. (Pacific time) one business day before the hearing.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within 14 days of the final hearing on the matter.

THE COURT ENDEAVORS TO PUBLISH ITS RULINGS AS SOON AS POSSIBLE. HOWEVER, CALENDAR PREPARATION IS ONGOING AND THESE RULINGS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

9:30 AM

1. [17-12535](#)-B-11 IN RE: OVADA MORERO

CONTINUED STATUS CONFERENCE RE: CHAPTER 11 VOLUNTARY
PETITION

6-30-2017 [[1](#)]

LEONARD WELSH

NO RULING.

2. [17-10238](#)-B-11 IN RE: SILO CITY, INC.
[RTM-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR
MOTION FOR ADEQUATE PROTECTION

11-29-2017 [[204](#)]

ALLSTAR GROWTH FUND, LLC/MV
JACOB EATON
MURRAY TRAGISH/ATTY. FOR MV.
RESPONSIVE PLEADING

NO RULING.

1:30 PM

1. [17-14513](#)-B-13 **IN RE: RANDALLCHAD MARTIN**
[SL-1](#)

MOTION TO AVOID LIEN OF STATE OF CALIFORNIA EMPLOYMENT
DEVELOPMENT DEPARTMENT
12-28-2017 [[13](#)]

RANDALLCHAD MARTIN/MV
STEPHEN LABIAK

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: No appearance is necessary. The court will issue the
order.

This motion is denied without prejudice for failure to comply with Local Bankruptcy Rule 9014-1(d)(3)(B)(iii). New Local Rules of Practice in the Eastern District became effective on September 26, 2017. In particular, Rule 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.

2. [17-12717](#)-B-13 **IN RE: DALJIT SINGH**
[HRH-1](#)

CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY
12-1-2017 [[66](#)]

SCOTTRADE BANK EQUIPMENT
FINANCE/MV
HANK WALTH
RAFFI KHATCHADOURIAN/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: The matter will proceed as scheduled.

DISPOSITION: Granted

ORDER: Moving party to prepare order consistent with
below ruling.

TCF Equipment Finance successor to Scottrade Bank Equipment Finance ("TCF"), seeks stay relief to foreclose its' interest in a 2016 Kenworth T680 Sleeper Cab Tractor abbreviated VIN 01101 ("tractor"). According to the records before the court, the tractor is owned by a corporation established by this debtor, RMG Express. The corporation has been dissolved as of March 6, 2017 (Doc. #69)

but there is no evidence the corporation has been wound up. See Cal. Corp. Code § 2010. The tractor was purchased in June 2016. The debtor apparently now operates trucks through a sole proprietorship owned by his non-debtor wife, MGR Trucking. There is no evidence the tractor's title was ever transferred from RMG Express to the debtor or MGR Trucking. The debtor has apparently changed the signage on the tractor to MGR Trucking and has purportedly obtained insurance on the tractor with the sole proprietorship as the insured. (Docs #93, 100).

This motion was originally noticed pursuant to LBR 9014-1(f)(2). The preliminary hearing was held on December 21, 2017 and a briefing schedule was established. The parties have submitted their additional briefs and other documentation. Neither party has reserved the right to have the record augmented by live testimony. LBR 9014-(g)(3).

TCF brought the motion on § 362(d)(1) grounds "for cause" due to lack of acceptable insurance and that the tractor was not property of the estate nor protected by the automatic stay. (Doc. #66) TCF also raised (d)(2) grounds: lack of equity and not necessary to an effective reorganization because the debtor is not paying for the tractor. (Doc. #66).

The debtor opposes though he does not dispute the lack of equity. TCF claims it is owed approximately \$117,000 (Doc. #71) and the debtor estimates the value of the tractor is \$76,000. (Doc. #1). The debtor instead argues the tractor is necessary to an effective reorganization as the Chapter 13 Plan's success relies on operating the tractor; TCF is adequately protected because the tractor is insured; and the monthly dividends now held by the trustee represent adequate protection. The dividends have not been paid because TCF has filed an unsecured claim even though the Plan classifies TCF in Class 2 and proposes to value TCF's interest in the tractor and to pay TCF approximately \$1,477 per month. (Doc. #17) The court's docket reflects that confirmation of the plan was approved subject to a stipulation between the debtor and the trustee but no confirmation order has been entered.

On the "property of the estate issue" the debtor admits that title is in the name of RMG Express but this debtor's right to redeem as a guarantor (See, Cal. Com. Code § 9623) is property of the estate. (Doc. #95). The argument assumes that the debtor's Chapter 13 Plan can modify the redemption right to permit valuation of TCF's interest and "cram down" of the claim.

First, the debtor has presented no competent evidence, so the debtor has not met his burden of proof under § 362(g)(2). 28 U.S.C. § 1746 sets forth the requirements for unsworn declarations in federal practice. They must be "subscribed as true under penalty of perjury and dated. . . "The debtor's "declaration" is not signed under penalty of perjury but simply dated. It is not competent evidence at all. The motion is GRANTED on this ground alone. Yet,

even if the "declaration" was executed under penalty of perjury, the motion should be GRANTED for the following reasons.

Second, the tractor itself is not property of the estate. All legal and equitable interests in property owned by the debtor at the commencement of the case are included in the bankruptcy estate. *Clark v. Rameker*, ___U.S.___, 134 S. Ct. 2242, 2244 (2014). The estate has no greater rights than the debtor had pre-petition. *In re Coupon Clearing Services, Inc.*, 113 F. 3d 1091, 1099 (9th Cir. 1997). The debtor guaranteed payment and performance of the loan agreement between TCF's predecessor, Scottrade, and RMG Express. No evidence presented to the court supports a transfer of title from RMG Express to the debtor at any time before the petition was filed. The debtor admits when the petition was filed the July 2017 payment was due. (Doc #93). So, on the petition date the debtor was the guarantor of a defaulted obligation with the right to redeem as determined by state law. *Butner v. United States*, 440 U.S. 48, 55 (1979); *Sec. Mortgage Co. v. Powers*, 278 U.S. 149, 157 (1928) [property rights existing before bankruptcy in persons other than the debtor had to be recognized and respected in bankruptcy]. That does not mean the debtor gained ownership of the tractor.

The debtor's language barrier issues and unfortunate experiences with Ms. Pabla do not change the result. (Doc. #93). The debtor in his "declaration" admits he affirmatively gave the RMG Express name to the dealer when purchasing the tractor (Doc. #93). He states he gave the dealership the RMG Express name even though it was not doing business. His subjective belief he was operating the RMG Express Corporation as if it were his own. *Id.* Sole proprietorship does not mean title to the tractor is other than what the legal documents state.

Third, the right to redeem does not automatically extend the automatic stay to non-debtor parties. To be sure, the right to redeem the tractor on the date of bankruptcy is property of the estate and subject to the automatic stay. See, *In re Bialac*, 712 F. 2d 426, 430 (9th Cir, 1983); *In re Lewis*, 137 F. 3d 1280, 1284 (11th Cir. 1998). This motion is for stay relief. So, if granted, stay relief is given to foreclose that right.

Neither non debtor parties or their property, nor "actions against guarantors, sureties, corporate affiliates, or other non-debtor parties liable on the debts of the debtor" are protected by the automatic stay. *Boucher v. Shaw*, 572 F. 3d 1087, 1092 (9th Cir. 2009); *Advanced Ribbons & Office Prods. v. U.S.*, 125 B.R. 259, 263 (9th Cir. BAP 1991). RMG Express is a corporate affiliate of this debtor and is not protected by the automatic stay. The debtor's right of redemption is protected.

The procedure to redeem under California law in commercial transactions requires "fulfillment" of all obligations secured by the collateral and reasonable expenses and attorney's fees. Cal. Comm. Code § 9623. There is no evidence this debtor can do that.

Also, the court has been provided no authority that the debtor can in a chapter 13 Plan modify the legal procedure to redeem. The debtor has not even stated that before the petition date he had elected to redeem. In fact, the Plan here in Section 2.09(c) states the amount of the Class 2 claim is determined by applicable non-bankruptcy law. Also, a motion to value the interest of TCF in the tractor, even if applicable, has not been completed here. Absent objection to the claim, TCF's claim in this case remains unsecured. § 1322 does permit modification of a secured claim in a Plan. But under § 506, a "secured claim" is one in which the estate has an interest in the property subject to the creditor's interest. Here the estate's interest is in the right of redemption - not the tractor.

Fourth, the debtor has not filed an adversary proceeding seeking an injunction against collection efforts focused on RMG Express. The automatic stay may protect non-debtors only under "unusual circumstances" where the interests of the debtor and the nondebtor are inextricably interwoven. See, *A.H. Robins v. Piccinin*, 788 F. 2d 994, 999 (4th Cir. 1986), cert. denied, 479 U.S. 876 (1986). No evidence has been presented suggesting that this debtor's and RMG Express' interests are inextricably interwoven.

Even if such evidence existed, the Ninth Circuit has held that "although referred to as extensions of the automatic stay" it is in fact an injunction issued by the bankruptcy court after a hearing where it is established that unusual circumstances are needed to protect the administration of the bankruptcy estate. *Boucher* at 1093 n. 3 (citing *In re Chugach Forest Prods., Inc.*, 23 F. 3d at 247); *In re Spaulding Composites Co., Inc.*, 207 B.R. 899 (9th Cir. BAP 1997). No adversary proceeding has been filed by the debtor here and no injunction has been issued. The court is not going to extend the protections of the stay to nondebtor parties on this motion.

The motion is GRANTED. FRBP 4001(a)(3) is waived as the tractor is being used and depreciating. Also, the tractor is not property of the estate based on this record.

3. [17-14133](#)-B-13 **IN RE: BENJAMIN HARRIS**
[PPR-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY CARRINGTON MORTGAGE
SERVICES, LLC
1-5-2018 [[29](#)]

CARRINGTON MORTGAGE SERVICES,
LLC/MV
NEIL SCHWARTZ
ALEXANDER MEISSNER/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to March 12, 2018 at 1:30 p.m.

ORDER: No appearance is necessary. The court will issue the
order.

The trustee has not yet concluded the meeting of creditors and by
prior order of the court, the trustee has another 7 days after
completion of the creditors' meeting to file his objection to the
plan. At the continued hearing, if the § 341 has been concluded and
this objection has not been withdrawn, the court will call the
matter and set an evidentiary hearing.

4. [17-14039](#)-B-13 **IN RE: PETER/ADRIANNA BISACCA**
[BDA-1](#)

CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY EXETER
FINANCE LLC
12-7-2017 [[17](#)]

EXETER FINANCE LLC/MV
MARK ZIMMERMAN
BRET ALLEN/ATTY. FOR MV.
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Overruled as moot.

ORDER: The minutes of the hearing will be the court's
findings and conclusions. The court will issue
an order.

This objection to confirmation will be OVERRULED AS MOOT. This
objection was continued to allow the § 341 Meeting of Creditors to
be continued to January 23, 2018. Debtors have responded to
creditor's objection and have acquiesced to those objections.
Debtors have agreed to increase their plan payment to \$1,042.06 and
will increase the monthly dividend to movant to \$449.37. These
provisions will be included in the Order Confirming Plan.

5. [17-12940](#)-B-13 **IN RE: NICHOLAS/MARGARET GREEN**
[JDR-4](#)

AMENDED MOTION TO VALUE COLLATERAL OF 21ST MORTGAGE
CORPORATION
12-22-2017 [[64](#)]

NICHOLAS GREEN/MV
JEFFREY ROWE

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Denied without prejudice.

ORDER: No appearance is necessary. The court will issue the
order.

This motion is denied without prejudice for failure to comply with Local Bankruptcy Rule 9014-1(d)(3)(B)(iii). New Local Rules of Practice in the Eastern District became effective on September 26, 2017. In particular, Rule 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.

6. [16-10344](#)-B-13 **IN RE: CHRISTOPHER/TINA GENEL**
[RSW-2](#)

MOTION TO INCUR DEBT
1-10-2018 [[35](#)]

CHRISTOPHER GENEL/MV
ROBERT WILLIAMS
RESPONSIVE PLEADING

TENTATIVE RULING: This matter will proceed as scheduled.

DISPOSITION: Continued to March 12, 2018 at 1:30 p.m.

ORDER: The minutes of the hearing will be the court's
findings and conclusions.

Debtor filed amended Schedules I and J on January 24, 2018, in support of their response to trustee's opposition to this motion. Prior to these amended schedules, Schedules I and J were nearly two years old. This motion is being continued to allow parties in interest to object to these amended schedules. If trustee has not withdrawn his opposition prior to the continued hearing, the court will call the matter. If trustee has withdrawn his opposition, the court will grant the motion.

7. [17-13047](#)-B-13 **IN RE: CAROL SHIELDS**
[DRJ-6](#)

MOTION TO VALUE COLLATERAL OF VALLEY FIRST CREDIT UNION
12-29-2017 [[69](#)]

CAROL SHIELDS/MV
DAVID JENKINS

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted without oral argument based on well-pled facts. This motion to value respondent's collateral was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondent(s) default will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The debtor is competent to testify as to the value of the 2013 Honda Accord. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Washington Mutual Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir, 2004). The respondent's secured claim will be fixed at \$14,500.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

8. [17-12549](#)-B-13 **IN RE: GERALD/RETHA MAXWELL**
[DRJ-3](#)

MOTION TO VALUE COLLATERAL OF BANK OF THE SIERRA
12-29-2017 [[37](#)]

GERALD MAXWELL/MV
DAVID JENKINS

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Granted.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

The motion will be granted without oral argument based on well-pled facts. This motion to value respondent's collateral was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondent(s) default will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The debtor is competent to testify as to the value of the 2007 Keystone Everest Trailer. Given the absence of contrary evidence, the debtor's opinion of value may be conclusive. *Enewally v. Washington Mutual Bank (In re Enewally)*, 368 F.3d 1165, 1173 (9th Cir, 2004). The respondent's secured claim will be fixed at \$16,350.00. The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates. The order will be effective upon confirmation of the chapter 13 plan.

9. [17-14466](#)-B-13 **IN RE: JENNIFER GUTIERREZ**
[EAT-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY LAKEVIEW LOAN
SERVICING, LLC
1-3-2018 [[26](#)]

LAKEVIEW LOAN SERVICING,
LLC/MV
SCOTT LYONS
DARLENE VIGIL/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Overruled without prejudice.

ORDER: No appearance is necessary. The court will issue the
order.

This objection is overruled without prejudice for failure to comply with Local Bankruptcy Rule 9014-1(d)(3)(B)(iii). New Local Rules of Practice in the Eastern District became effective on September 26, 2017. In particular, Rule 9014-1(d)(3)(B), which is about noticing requirements, requires movants to notify respondents that they can determine whether the matter has been resolved without oral argument or if the court has issued a tentative ruling by checking the Court's website at www.caeb.uscourts.gov after 4:00 p.m. the day before the hearing.

10. [17-11570](#)-B-13 **IN RE: GREGGORY KIRKPATRICK**
[MHG-3](#)

CONTINUED OBJECTION TO CLAIM OF CHRISTOPHER SCOTT CALLISON,
CLAIM NUMBER 8
9-8-2017 [[64](#)]

GREGGORY KIRKPATRICK/MV
MARTIN GAMULIN
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to February 15, 2018, at 1:30 p.m.

ORDER: No appearance is necessary. The court will issue an
order.

By prior order of the court, this motion is being continued to February 15, 2018 at 1:30 p.m. Joint or unilateral status reports must be filed with the court by February 8, 2018. Docket #144.

11. [17-11570](#)-B-13 **IN RE: GREGGORY KIRKPATRICK**
[MHM-2](#)

MOTION TO DISMISS CASE
12-29-2017 [[130](#)]

MICHAEL MEYER/MV
MARTIN GAMULIN

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to February 15, 2018, at 1:30 p.m.

ORDER: No appearance is necessary. The court will issue an order.

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules of Practice. The debtor filed timely opposition, indicating that a second modified chapter 13 plan has been filed and set for hearing. Therefore, the trustee's motion to dismiss will be continued to February 15, 2018, at 1:30 p.m., to be heard with the motion to confirm chapter 13 plan.

12. [17-14575](#)-B-13 **IN RE: PAUL/CARRIE COLVIN**
[PPR-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY CARRINGTON MORTGAGE SERVICES, LLC
1-4-2018 [[20](#)]

CARRINGTON MORTGAGE SERVICES,
LLC/MV
MARK ZIMMERMAN
CASSANDRA RICHEY/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Overruled as moot.

ORDER: No appearance is necessary. The court will issue the order.

Debtors filed a response on January 23, 2018 and have acquiesced to all of the creditor's objections. The changes agreed upon in creditors' response will be included in the Order Confirming Plan, if a plan is confirmed, and this objection will be OVERRULED AS MOOT.

13. [17-13798](#)-B-13 **IN RE: JASON/MANDY LAWTON**
[SAH-5](#)

MOTION TO CONFIRM PLAN
12-15-2017 [[64](#)]

JASON LAWTON/MV
SUSAN HEMB
RESPONSIVE PLEADING

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Continued to February 15, 2018.

ORDER: No appearance is necessary. The court will issue the order.

The trustee has not yet concluded the meeting of creditors and by prior order of the court, the trustee has another 7 days after completion of the creditors' meeting to file his objection to the plan. At the continued hearing, if the § 341 meeting has concluded and trustee's objection to this motion has not been withdrawn, the court will call the matter and may set an evidentiary hearing or schedule further proceedings, if any are necessary.

14. [17-13798](#)-B-13 **IN RE: JASON/MANDY LAWTON**
[SAH-6](#)

OBJECTION TO CLAIM OF WELLS FARGO BANK, N.A., CLAIM NUMBER
7-1
12-15-2017 [[72](#)]

JASON LAWTON/MV
SUSAN HEMB

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Sustained.

ORDER: No appearance is necessary. The Moving Party shall submit a proposed order in conformance with the ruling below.

This matter was fully noticed in compliance with the Local Rules of Practice and there is no opposition. Accordingly, the respondent's default will be entered. Federal Rule of Civil Procedure 55, made applicable by Federal Rule of Bankruptcy Procedure 7055, governs default matters and is applicable to contested matters under Federal Rule of Bankruptcy Procedure 9014(c). Upon default, factual allegations will be taken as true (except those relating to amount of damages). *Televideo Systems, Inc. v. Heidenthal* (826 F.2d 915, 917 (9th Cir., 1987)). Constitutional due process requires that a plaintiff make a prima facie showing that they are entitled to the relief sought, which the movant has done here.

The claim will be disallowed in full on the grounds stated in the objection. Based on the evidence submitted in support of the objection, the property was and always has been Co-Debtor/Ex-Spouse of Debtor sole and separate property and Creditor has other means available to receive payment on their loan.

15. [17-12881](#)-B-13 **IN RE: RUBEN/KARIMA PARKS**
[JDW-4](#)

CONTINUED MOTION TO CONFIRM PLAN
11-29-2017 [[94](#)]

RUBEN PARKS/MV
JOEL WINTER
RESPONSIVE PLEADING

NO RULING.

16. [17-14609](#)-B-13 **IN RE: MARK NOACK**
[AP-1](#)

OBJECTION TO CONFIRMATION OF PLAN BY WELLS FARGO BANK,
NATIONAL ASSOCIATION
1-25-2018 [[28](#)]

WELLS FARGO BANK, NATIONAL
ASSOCIATION/MV
TIMOTHY SPRINGER
JAMIE HANAWALT/ATTY. FOR MV.

FINAL RULING: There will be no hearing on this matter.

DISPOSITION: Overruled without prejudice.

ORDER: No appearance is necessary. The court will issue the order.

This objection is OVERRULED WITHOUT PREJUDICE for failure to comply with the Local Bankruptcy Rules ("LBR").

LBR 3015-1(c)(4) requires an objection to confirmation of plan to be filed and served within seven days after the first date set for the meeting of creditors. The first date set for the meeting of creditors was January 9, 2018. This motion was filed on January 25, 2018, which is more than seven days after January 9, 2018. Therefore, this motion does not comply with 3015-1(c)(4).

LBR 9014-1(f)(2) requires that respondents be given at least 14 days' notice before a hearing. This motion was filed on January 25, 2018 and set for hearing on February 1, 2018, just seven days after the objection was filed. No order shortening time was requested or granted. Therefore this motion does not comply with 9014-1(f)(2).