

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Modesto, California

March 11, 2014 at 10:00 a.m.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

Unless 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.

1.	13-91902-D-13	HOWARD/SONDRA LAYNE	MOTION TO CONFIRM PLAN
	SSA-2		1-21-14 [32]

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.

2. 13-92003-D-13 MICHAEL/MONICA ALLEN
SDM-1

MOTION TO CONFIRM PLAN
1-23-14 [25]

Final ruling:

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons: (1) the moving parties served the motion, notice of hearing, and supporting declaration, but not the plan itself, as required by LBR 3015-1(d)(1); (2) the moving parties failed to serve the U.S. Dept. of Education at its address on the Roster of Governmental Agencies, as required by LBR 2002-1(b); and (3) the proof of service is not signed under oath, as required by 28 U.S.C. § 1746. The proof of service states that the declarant certifies under penalty of perjury that she is over 18 years old and not a party to this case. The declarant "further certif[ies]," but not under penalty of perjury, the factual allegations as to service.

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.

3. 13-91804-D-13 JEWEL MCCLENDON
RLF-1

MOTION TO CONFIRM PLAN
1-23-14 [25]

Final ruling:

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied because the "attached service list" referred to in the proof of service is not attached; thus, the court cannot determine whether all required parties were served and at the correct addresses. Further, the proof of service does not adequately evidence the manner of service or that service was actually made. The declarant states that she served the documents "by placing a true copy for mailing enclosed in sealed envelopes with postage fully prepaid" Proof of Service, filed Jan. 23, 2014, at 1:19-20 (emphasis added). She adds this confusing statement: "I am aware that on motion of party service, service is presumed invalid if postal cancellation date or postage meter date is more that one day after date of deposit for mailing." Id. at 1:21-23. There is no language in the proof of service that would constitute evidence that the declarant actually made service by depositing the envelopes in the United States Mail.

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

4. 13-92204-D-13 JORGE HERNANDEZ AND ANA OBJECTION TO CONFIRMATION OF
RDG-1 PEREIRA PLAN BY RUSSELL D. GREER
2-10-14 [25]

5. 10-94705-D-13 JOHN/REBECCA LARMORE MOTION TO EXCUSE CO-DEBTOR
CJY-3 REBECCA A. LARMORE FROM
COMPLETING 11 U.S.C. SECTION
1328 CERTIFICATE OR CERTIFICATE
OF CHAPTER 13 DEBTOR RE: 11
U.S.C. SECTION 522(Q)
EXEMPTIONS
2-4-14 [52]

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 to excuse co-debtor Rebecca A. Larmore from completing 11 U.S.C. section 1328 certificate or certificate of Chapter 13 debtor re: 1 U.S.C. Section 522(q) exemptions is supported by the record. As such the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

6. 13-91805-D-13 HOWARD/PAMELA KEMP MOTION TO CONFIRM PLAN
RLF-1 1-24-14 [26]

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

Final ruling:

This case was converted to a case under Chapter 7 on February 17, 2014. As a result the motion will be denied by minute order as moot. No appearance is necessary.

8. 13-91908-D-13 MARTIN OCHOA AND ROSA LUA MOTION TO CONFIRM PLAN
TOG-10 1-21-14 [43]

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.

9. 11-93009-D-13 LUIS JASSO AND VIANEY MOTION TO APPROVE LOAN
NLG-1 CARDONA MODIFICATION
1-31-14 [52]

Final ruling:

This is the motion of Nationstar Mortgage for an order approving a loan modification agreement with the debtors. The motion will be denied for two reasons. First, it is not supported by evidence sufficient to demonstrate that the moving party is entitled to the relief requested, as required by LBR 9014-1(d)(6). In support of the motion, the moving party has submitted unauthenticated copies of a purported loan modification agreement, note, deed of trust, and assignment of deed of trust, together with the moving party's counsel's declaration as follows:

"I am informed and believe and thereon allege that the proposed Loan Modification Agreement will not have any adverse impact on the estate, the Trustee, or any other creditor in this bankruptcy case, and/or any Discharge that the Debtors may receive in the Bankruptcy Action." N. Glowin Decl., filed Jan. 31, 2014, at 2:27-3:2. The moving party has provided no factual allegations, let alone admissible evidence, that would support those conclusions.

Second, the moving party served only the debtors, their attorney, the chapter 13 trustee, the United States Trustee, and the holder of the junior mortgage on the property, and failed to serve any of the other creditors in this case. The other creditors in the case are parties with an interest in the outcome of this motion, and thus, need to be served.

For the reasons stated, the motion will be denied by minute order. No appearance is necessary.

10. 13-92209-D-13 DONOVAN/CHRISTY PEREZ OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
2-10-14 [14]

11. 09-90412-D-13 HECTOR RECINOS AND YVONNE MOTION TO VALUE COLLATERAL OF
JDP-1 REYES-RECINOS WELLS FARGO BANK, N.A.
2-10-14 [57]

Final ruling:

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Wells Fargo Bank, 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 Wells Fargo Bank, N.A.'s secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

12. 09-90412-D-13 HECTOR RECINOS AND YVONNE MOTION TO VALUE COLLATERAL OF
JDP-2 REYES-RECINOS GE CAPITAL RETAIL BANK
2-10-14 [61]

Final ruling:

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of GE Capital Retail 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 GE Capital Retail Bank's secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

13. 10-91612-D-13 ARTURO/NICOLE SAAVEDRA MOTION TO VALUE COLLATERAL OF
JDP-1 WELLS FARGO BANK, N.A.
2-13-14 [53]

Final ruling:

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Wells Fargo Bank, 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 Wells Fargo Bank, N.A.'s secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

14. 13-91812-D-13 DOUGLAS/KAREN METCALFE MOTION TO CONFIRM PLAN
SSA-2 1-22-14 [40]

Final ruling:

The motion will be denied as moot. The debtors filed a third amended plan on March 3, 2014, making this motion moot. As a result the court will deny the motion without prejudice by minute order. No appearance is necessary.

15. 13-91812-D-13 DOUGLAS/KAREN METCALFE MOTION TO AVOID LIEN OF BRANCH
SSA-3 BANKING AND TRUST COMPANY
1-30-14 [47]

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.

16. 13-91815-D-13 CARLOS CENDEJAS AND MOTION TO CONFIRM PLAN
TOG-2 LORENA VEGA 1-14-14 [33]

17. 13-91825-D-13 ANGEL/TABATHA GARCIA MOTION TO CONFIRM PLAN
LRR-2 1-14-14 [40]

Tentative ruling:

This is the debtors' motion to confirm an amended chapter 13 plan. The trustee has filed opposition, and the debtors have filed a response. The court will hear from the trustee as to the debtors' response. However, the court has preliminary concerns.

The debtors' original plan called for plan payments of \$1,268 per month for 60 months, which would allow them to pay off their car loan and pay a dividend of 23% on general unsecured claims. The trustee objected to that plan on the grounds that the debtors' figures on their Form 22C for Mr. Garcia's tax withholdings (line 30) and their health care expenses (line 36) were overstated by \$1,266 and \$400, respectively, for a total of \$1,666. The trustee concluded he could not determine whether the plan met the disposable income test of § 1325(b) of the Bankruptcy Code.

The debtors responded by offering to increase their plan payment by \$813 per month. Their response contained an analysis of their tax situation that differed from the trustee's. As the proposed increase would have significantly changed the plan that had been served on creditors, the trustee's objection was sustained, and this motion followed. The debtors' amended plan calls for an increase in the plan payment to \$2,081, an increase of \$813 per month, the same increase the debtors had suggested in their response to the objection to confirmation.

The trustee filed opposition to this motion on the basis that the debtors had failed to file amended Schedules I and J to show they can afford to make the increased plan payment, and had failed to file an amended Form 22C to correct the errors they acknowledged were made in the original; thus, the trustee was unable to determine whether the plan meets the disposable income test. In response, the debtors have now filed amended Schedules I and J and an amended Form 22C. The court will hear from the trustee; however, the court has two preliminary concerns. First, in their response to the trustee's objection to confirmation, the debtors stated that increasing the plan payment to \$813 per month would result in a dividend of 50% to general unsecured creditors, whereas the proposed amended plan still provides for only 23%. (The debtors' estimate of the total general unsecured claims has not changed.) Second, although the debtors have decreased Mr. Garcia's tax withholdings to \$2,825, they have added a brand-new deduction of \$1,077 for mandatory retirement contributions on their amended Schedule I. Without a satisfactory explanation for this addition, the court would be unable to conclude that the plan has been proposed in good faith.

The court will hear the matter.

18. 11-94126-D-13 ROSS/DENISE HOSKINS MOTION TO VALUE COLLATERAL OF
JDP-1 SUNTRUST BANK
2-10-14 [42]

Final ruling:

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Suntrust 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 Suntrust Bank's secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

19. 11-93329-D-13 CLARA/FERNANDO CASILLAS MOTION TO MODIFY PLAN
BSH-4 1-15-14 [55]

Tentative ruling:

This is the debtors' motion to confirm an modified chapter 13 plan. The trustee has filed opposition. The court agrees with the trustee; accordingly, the motion will be denied.

At the time the debtors' present plan was confirmed, two years ago, debtor Clara Casillas' gross income was \$6,050 per month, and the debtors' combined monthly net income was \$1,199 per month. The confirmed plan calls for a dividend of 5% on general unsecured claims estimated at \$117,744, for a total of \$5,887 to be paid on those claims. Clara Casillas' gross income has now increased to \$9,970 per month, an increase of \$3,920 per month. (Fernando Casillas' income has not changed.) Yet

despite this very large increase, the proposed modified plan calls for an increase in the dividend to only 9% on claims now estimated at \$130,545, for a total of \$11,749 to be paid on those claims. That is, although Clara Casillas' gross income has increased by almost \$4,000 per month, and although there are 31 months remaining in the plan term, the total to be paid on general unsecured claims will increase by a total of \$5,862, which works out to \$189 per month over the next 31 months.

Much of the increase in Clara Casillas' gross income is offset by increases in her tax withholdings and insurance premiums, and by the fact that the debtors are now living separately, and thus, have household expenses for two households. However, in addition, Clara Casillas has begun a voluntary retirement contribution in the amount of \$480 per month. The trustee contends this contribution is not reasonable or necessary in any amount, and the court agrees. The debtors were above-median income debtors when this case was commenced, and thus, were not entitled to deduct voluntary retirement contributions when calculating their disposable income. Parks v. Drummond (In re Parks), 475 B.R. 703, 709 (9th Cir. 2012). That Clara Casillas has elected to begin contributing now, for the all-too-obvious purpose of offsetting even more of her 65% income increase, does not reflect well on her good faith in proposing this plan.

For this reason, the court concludes that the debtors have failed to meet their burden of demonstrating that the plan has been proposed in good faith, and the motion will be denied. The court will hear the matter.

20. 11-93329-D-13 CLARA/FERNANDO CASILLAS CONTINUED MOTION TO APPROVE
BSH-5 LOAN MODIFICATION
1-15-14 [50]

21. 13-92131-D-13 JUAN FELIX MARTINEZ OBJECTION TO DEBTOR'S CLAIM OF
RDG-3 EXEMPTIONS
1-27-14 [40]

Final ruling:

This case was dismissed on February 3, 2014. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

22. 13-90736-D-13 VICTOR/ANNE VIERRA CONTINUED OBJECTION TO CLAIM OF
CJY-1 WELLS FARGO FINANCIAL
CALIFORNIA, INC., CLAIM NUMBER
2
12-19-13 [26]

Final ruling:

This objection was resolved by a stipulated order entered on March 6, 2014. As such this objection is removed from calendar as moot. Matter removed from calendar.

23. 10-94640-D-13 BETH LEONARDO-WYATT
NLG-1

MOTION TO APPROVE LOAN
MODIFICATION
2-7-14 [35]

Final ruling:

This is the motion of Nationstar Mortgage for an order approving a loan modification agreement with the debtor. The motion will be denied for two reasons. First, it is not supported by evidence sufficient to demonstrate that the moving party is entitled to the relief requested, as required by LBR 9014-1(d)(6). In support of the motion, the moving party has submitted unauthenticated copies of a purported loan modification agreement, note, deed of trust, and assignment of deed of trust, together with the moving party's counsel's declaration as follows:

"I am informed and believe and thereon allege that the proposed Loan Modification Agreement will not have any adverse impact on the estate, the Trustee, or any other creditor in this bankruptcy case, and/or any Discharge that the Debtor may receive in the Bankruptcy Action." N. Glowin Decl., filed Feb. 7, 2014, at 2:27-3:2. The moving party has provided no factual allegations, let alone admissible evidence, that would support those conclusions.

Second, the moving party served only the debtor, her attorney, the chapter 13 trustee, the United States Trustee, and the holder of the junior mortgage on the property, and failed to serve any other creditors in the case that are parties with an interest in the outcome of this motion, and thus, need to be served.

For the reasons stated, the motion will be denied by minute order. No appearance is necessary.

24. 11-92744-D-13 JOSE/CORA PEREZ
APN-2

MOTION TO FILE A FORMAL PROOF
OF CLAIM
2-7-14 [89]

Final ruling:

This is the motion of Ford Motor Credit for leave to amend an alleged informal proof of claim. The trustee has filed opposition indicating that he needs additional time to review the matter with his counsel, and requesting a continuance of the hearing and of the trustee's time to file opposition. Accordingly, the court will continue the hearing to March 25, 2014, at 10:00 a.m., as requested by the trustee, and the trustee's time to file opposition to the motion will be extended to March 11, 2014, as he has requested.

The hearing will be continued by minute order. No appearance is necessary on March 11, 2014.

25. 12-91744-D-13 HENRIK YAGHOUBI BABRUD MOTION TO MODIFY PLAN
JCK-3 AND JAKLIN POURTARVIRDI 1-30-14 [70]

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.

26. 12-91851-D-13 JOHN/EILEEN SANCHEZ MOTION TO MODIFY PLAN
RLF-5 1-21-14 [70]

27. 10-90452-D-13 JULIETA MANAWATAO MOTION FOR COMPENSATION BY THE
CJY-1 LAW OFFICE OF FRIEND YOUNGER
FOR JAMES D. PITNER, DEBTOR'S
ATTORNEY(S), FEES: \$712.50,
EXPENSES: \$0.00
2-4-14 [61]

Final ruling:

This is the motion of the debtors' counsel in this case ("Counsel") for additional attorney's fees. The court is not prepared to grant the motion at this time because the moving party served only the debtor, the chapter 13 trustee, and the United States Trustee, and failed to serve any of the creditors. The court is aware that Fed. R. Bankr. P. 2002(b)(6) requires service on all creditors of requests for compensation in excess of \$1,000, whereas here, Counsel is seeking only \$712.50 in additional fees. However, first, the notice of hearing states that all creditors were served, and second, there have been six requests for special notice filed in this case; those creditors, at the very least, should have been served.

The court has two additional concerns. First, earlier motions filed by Counsel in other cases have raised the issue that Counsel was billing in increments of quarters of an hour rather than tenths of an hour, as is customary for attorneys practicing in this court, and as was required by the court's former Guidelines for Compensation and Expense Reimbursement of Professionals. See In re Pedersen, 229 B.R. 445, 449 (Bankr. E.D. Cal. 1999). Counsel's use of the quarter-of-an-hour increment with 0.25 as the minimum made it difficult for the court to find that all

services were billed at the actual amount of time spent. With this motion, Counsel has billed for its time in increments of ten minutes, with ten minutes as the minimum, rather than in increments of six minutes. (In other words, Counsel has billed in sixths of an hour, rather than in tenths.) It is standard practice in this district and others than counsel in bankruptcy cases bill in increments of tenths of an hour, presumably because many of the tasks an attorney performs are actually completed in just a couple of minutes, and should be billed in a minimum increment of six minutes. For future motions, Counsel should be cognizant of this distinction.

The court will continue the hearing to March 25, 2014, at 10:00 a.m., the moving party to file a notice of continued hearing and serve it on all creditors no later than March 11, 2014, and to file a proof of service no later than March 14, 2014. The notice of continued hearing shall be a notice pursuant to LBR 9014-1(f)(2) (no written opposition required), and shall include the amount of compensation Counsel has previously received in this case and the amount of additional compensation sought. The hearing will be continued by minute order. No appearance is necessary on March 11, 2014.

28. 11-90952-D-13 MICHAEL/MAYUMI FRAZIER MOTION FOR CONSENT TO ENTER
SDM-2 INTO LOAN MODIFICATION
AGREEMENT
1-29-14 [34]

Final ruling:

The debtors have filed this motion for an order authorizing them to enter into negotiations with Green Tree Servicing ("Green Tree") for a mortgage loan modification. The motion states that Green Tree has requested the debtors obtain a court order prior to the commencement of negotiations. As the trustee rightly points out in his opposition, the motion is premature. That is, court approval for a debtor to enter into negotiations with a creditor is not necessary. The motion will be denied as unnecessary.

The motion will be denied as unnecessary by minute order. No appearance is necessary.

29. 13-92052-D-13 RALPH KLAUSER MOTION TO CONFIRM PLAN
MRP-2 1-17-14 [40]

30. 10-90154-D-13 ROBERT/DENNELL CALLAGHER MOTION TO MODIFY PLAN
SDM-8 1-16-14 [181]

Final ruling:

This is the debtors' motion to confirm a plan entitled "Chapter 13 Plan - Amended No. 8." On February 20, 2014, the debtors filed a plan entitled "Chapter 13 Plan - Ninth Amendment," along with a motion to confirm it. As a result of the filing of the Chapter 13 Plan - Ninth Amendment, the present motion is moot. The motion will be denied as moot by minute order. No appearance is necessary.

31. 09-90559-D-13 DONALD/DEBRA SACUSKIE MOTION TO VALUE COLLATERAL OF
JDP-1 WELLS FARGO BANK, N.A.
2-3-14 [56]

Final ruling:

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Wells Fargo Bank, 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 Wells Fargo Bank, N.A.'s secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

32. 13-92159-D-13 MICHAEL/CAROL MCDANIEL OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
2-10-14 [16]

33. 11-90460-D-13 MARK/KATHLEEN HILL MOTION TO MODIFY PLAN
DN-3 1-14-14 [53]

34. 10-92362-D-13 JAMIE/MARTHA CASTANEDA MOTION TO VALUE COLLATERAL OF
JDP-1 BANK OF AMERICA, N.A.
2-11-14 [39]

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.

35. 12-92265-D-13 LACK VA MOTION TO MODIFY PLAN
CJY-2 1-29-14 [31]

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.

36. 10-94867-D-13 IRIS MESTEMACHER MOTION TO VALUE COLLATERAL OF
JDP-1 WELLS FARGO BANK, N.A.
2-3-14 [35]

37. 13-92167-D-13 NANCY BARONE OBJECTION TO CONFIRMATION OF
RDG-2 PLAN BY RUSSELL D. GREER
2-10-14 [20]

Final ruling:

This case was dismissed on February 25, 2014. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

38. 11-93269-D-13 ULYSSES O'DELL AND MOTION TO MODIFY PLAN
SDM-4 CYNTHIA BORGES-O'DELL 1-29-14 [69]

Final ruling:

This is the debtors' motion to confirm a modified chapter 13 plan. The motion will be denied for the following reasons: (1) the moving parties served the motion, notice of hearing, and supporting declaration, but not the plan itself, as required by LBR 3015-1(d)(1); (2) the moving parties failed to serve the Internal Revenue Service at its address on the Roster of Governmental Agencies, as required by LBR 2002-1(b); (3) the notice of hearing does not state the location of the courthouse, as required by LBR 9014-1(d)(2); and (4) the proof of service is not signed under oath, as required by 28 U.S.C. § 1746. The proof of service states that the declarant certifies under penalty of perjury that she is over 18 years old and not a party to this case. The declarant "further certif[ies]," but not under penalty of perjury, the factual allegations as to service.

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

39. 13-91872-D-13 DENNIS/LORETTA BLOYED MOTION TO CONFIRM PLAN
CSL-1 1-23-14 [35]

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.

40. 09-90473-D-13 JEFFREY/KRISTI HALE CONTINUED MOTION TO MODIFY PLAN
DCJ-4 12-11-13 [68]

41. 09-90574-D-13 ARLEN/JULIE COLE MOTION TO VALUE COLLATERAL OF
JDP-1 LVNV FUNDING, LLC/RESURGENT
CAPITAL SERVICES
2-4-14 [56]

Final ruling:

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of LVNV Funding, LLC/Resurgent Capital Service 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 LVNV Funding, LLC/Resurgent Capital Service's secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

42. 13-90477-D-13 CHRISTOPHER/KIMBERLY MOTION TO MODIFY PLAN
CJY-2 GLEESE 1-22-14 [75]

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.

43. 11-91878-D-13 RAYMUNDO HURTADO MOTION TO VALUE COLLATERAL OF
TOG-5 THE BANK OF NEW YORK MELLON
2-3-14 [77]

Final ruling:

The hearing on this motion is continued by stipulated order to March 25, 2014 at 10:00 a.m. No appearance is necessary.

44. 12-90582-D-13 FARRIN/SHIRLEY CUMMINS MOTION TO MODIFY PLAN
BPC-2 2-4-14 [43]

45. 13-92182-D-13 MARK/CINDY HARLAN
RDG-2

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
2-10-14 [20]

46. 12-91384-D-13 FAY ADAMS
CJY-3

MOTION TO MODIFY PLAN
1-27-14 [27]

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.

47. 09-91086-D-13 JOHN VIERRA AND ARCELIA
JDP-1 PENA

MOTION TO VALUE COLLATERAL OF
HSBC BANK USA, N.A.
2-13-14 [47]

Final ruling:

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of HSBC Bank USA, 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 HSBC Bank USA, N.A.'s secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

48. 13-92191-D-13 DURLABH GANDHI
KK-1

OBJECTION TO CONFIRMATION OF
PLAN BY METCALF BANK
2-12-14 [32]

Final ruling:

This case was dismissed on March 3, 2014. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

49. 13-92191-D-13 DURLABH GANDHI OBJECTION TO CONFIRMATION OF
RDG-3 PLAN BY RUSSELL D. GREER
2-10-14 [29]

Final ruling:

This case was dismissed on March 3, 2014. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

50. 08-92198-D-13 RUSSELL/VIVIAN JANTZ MOTION TO MAINTAIN CHAPTER 13
CWC-9 CASE OPEN PENDING RESOLUTION OF
SECURED MORTGAGE LIEN REMOVAL
WITH JUNIOR DEED OF TRUST
HOLDER, CITIBANK, N.A.
1-29-14 [160]

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 to maintain Chapter 13 case open pending resolution of secured mortgage lien removal with junior deed of trust holder, Citibank, N.A. is supported by the record. As such the court will grant the motion to maintain Chapter 13 case open pending resolution of secured mortgage lien removal with junior deed of trust holder, Citibank, N.A. Moving party is to submit an appropriate order. No appearance is necessary.

51. 13-92099-D-13 LINDA VAUGHAN OBJECTION TO DEBTOR'S CLAIM OF
RDG-4 EXEMPTIONS
1-22-14 [33]

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 failed to file a spousal waiver for use of the Cal. Code Civ. Proc. § 703.140(b)(5) exemptions. On January 31, 2014, the debtor filed a spousal waiver in the appropriate form that was signed by both the debtor and her spouse. As a result, the trustee's objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

52. 13-91908-D-13 MARTIN OCHOA AND ROSA LUA MOTION TO VALUE COLLATERAL OF
TOG-3 WELLS FARGO BANK, N.A.
2-13-14 [55]

53. 09-92060-D-13 ADRIANA OLIVEIRA MOTION TO APPROVE LOAN
CJY-1 MODIFICATION
2-24-14 [42]
54. 10-94570-D-13 MARIA JIMENEZ MOTION FOR CONSENT TO ENTER
CJO-1 INTO LOAN MODIFICATION
AGREEMENT
2-20-14 [41]
55. 13-92170-D-13 TATIANA LAGOUTOTCHKIN OBJECTION TO CONFIRMATION OF
PD-1 PLAN BY WELLS FARGO BANK, N.A.
2-18-14 [21]
56. 11-91294-D-13 RUBEN SAMPERIO AND MARIA MOTION TO VALUE COLLATERAL OF
JDP-1 GONZALEZ JP MORGAN CHASE BANK, N.A.
2-18-14 [52]

Final ruling:

This is the debtors' motion to value collateral of JPMorgan Chase Bank. The motion will be denied because the moving parties gave only 21 days' notice of the hearing, whereas the notice of hearing states that any creditor wishing to oppose the motion must file and serve written opposition at least 14 days before the hearing date, and adds that without good cause, no party shall be heard in opposition to the motion if written opposition has not been timely filed. Thus, the notice of hearing does not comply with LBR 9014-1(f)(2). As a result of this notice defect, the motion will be denied by minute order. No appearance is necessary.

