

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Modesto, California

April 8, 2014 at 10:00 a.m.

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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.

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|----|---------------|------------|--------------------------------|
| 1. | 14-90001-D-13 | LENA BAKER | OBJECTION TO DEBTOR'S CLAIM OF |
|    | RDG-3         |            | EXEMPTIONS                     |
|    | Final ruling: |            | 2-24-14 [40]                   |

The matter is resolved without oral argument. The court's record indicates that no timely opposition/response to the objection has been filed and the objection is supported by the record. Accordingly, the court will sustain the objection to debtor's claim of exemptions. Moving party is to submit an appropriate order. No appearance is necessary.

|    |               |                   |                               |
|----|---------------|-------------------|-------------------------------|
| 2. | 10-93503-D-13 | KELLY/JUDY OLIVER | MOTION TO VALUE COLLATERAL OF |
|    | JDP-1         |                   | JP MORGAN CHASE BANK, N.A.    |
|    | Final ruling: |                   | 3-4-14 [40]                   |

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

3. 13-91812-D-13 DOUGLAS/KAREN METCALFE OBJECTION TO DEBTOR'S CLAIM OF  
RDG-3 EXEMPTIONS  
2-19-14 [56]

**Final ruling:**

This is the trustee's objection to the debtors' claim of exemptions. On March 3, 2014, the debtors filed an amended Schedule C. 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.

4. 12-92433-D-13 DOUGLAS/JUDITH BRADSHAW MOTION TO MODIFY PLAN  
CJY-2 2-26-14 [48]

**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.

5. 14-90034-D-13 MARIA SALAS MOTION TO CONFIRM PLAN  
TOG-2 2-12-14 [15]

**Final ruling:**

This is the debtor's motion to confirm an amended chapter 13 plan. The motion is premature, as the plan proposes to value the claim secured by a second position deed of trust against the debtor's residence and the claim secured by a first position deed of trust against the debtor's rental property at less than the full amounts of the claims, whereas the debtor has not obtain orders valuing the collateral securing those claims, as required by LBR 3015-1(j). The debtors' motions to value collateral are set for hearing on April 22, 2014, at 10:00 a.m. The hearing on this motion will be continued to the same date and time, to be heard with the motions to value.

The hearing will be continued by minute order. No appearance is necessary on April 8, 2014.

6. 09-90639-D-13 FRANKLIN/DOLORES MOTION TO VALUE COLLATERAL OF  
JDP-1 DOMINGUEZ CITIBANK, N.A.  
3-13-14 [113]

**Final ruling:**

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

7. 09-90639-D-13 FRANKLIN/DOLORES MOTION TO VALUE COLLATERAL OF  
JDP-2 DOMINGUEZ CITIBANK, N.A.  
3-13-14 [109]

8. 10-90443-D-13 LISA KLOSE MOTION FOR RELIEF FROM  
RFM-1 AUTOMATIC STAY  
2-27-14 [37]  
  
U.S. BANK, NATIONAL  
ASSOCIATION VS.

**Final ruling:**

In the debtors' confirmed plan this creditor is scheduled as Class 4 - to be paid outside the plan. Therefore, the motion is unnecessary as the plan explicitly provides: "Entry of the confirmation order shall constitute an order modifying the automatic stay to allow the holder of a Class 4 secured claim to exercise its rights against its collateral in the event of a default under the terms of its loan or security documentation provided this case is pending under chapter 13." The court will deny the motion as unnecessary by minute order. No appearance is necessary.

9. 13-91543-D-13 SEAN AMIN MOTION TO CONFIRM PLAN  
DCJ-3 2-18-14 [45]

**Final ruling:**

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied because the moving party failed to serve Gabe Solomon, listed on the debtor's Schedule G as a tenant, through August 2014, of the debtor's commercial property. The debtor was required to list Gabe Solomon on his master address list (Fed. R. Bankr. P. 1007(a)(1)), which he did not do, and given the very broad definitions of "creditor" and "claim" under the Bankruptcy Code (§ 101(5) and (10)), this tenant was required to be served with this motion, under Fed. R. Bankr. P. 2002(b). As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.

10. 13-91744-D-13 RICARDO MORALES MOTION TO CONFIRM PLAN  
TOG-2 2-18-14 [37]

**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.

11. 10-90154-D-13 ROBERT/DENNELL CALLAGHER MOTION TO MODIFY PLAN  
SDM-9 2-20-14 [187]

**Final ruling:**

**Motion withdrawn by moving party. Matter removed from calendar.**

12. 09-92060-D-13 ADRIANA OLIVEIRA MOTION TO MODIFY PLAN  
CJY-3 2-24-14 [49]

**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.

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

14. 11-93266-D-13 JESSE/ROSA GONZALES MOTION TO MODIFY PLAN  
CJY-02 3-3-14 [57]

**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.

15. 09-92170-D-13 PERRY/NATASHA MCCALL  
JDP-1

MOTION TO VALUE COLLATERAL OF  
VERTICAL MORTGAGE FUND I, LLC  
3-5-14 [126]

**Final ruling:**

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

16. 09-92170-D-13 PERRY/NATASHA MCCALL  
JDP-2

MOTION TO VALUE COLLATERAL OF  
DLJ MORTGAGE CAPITAL  
3-6-14 [130]

**Final ruling:**

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

17. 11-90470-D-13 EDGAR/ANGELICA CHAPA  
JAD-1

MOTION TO MODIFY PLAN  
2-18-14 [63]

**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.

18. 11-90470-D-13 EDGAR/ANGELICA CHAPA  
JAD-2

MOTION FOR COMPENSATION FOR  
JESSICA A. DORN, DEBTOR'S  
ATTORNEY  
2-18-14 [68]

**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, with one exception, the fees requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). The exception is the \$90 charge for the Applicant's paralegal to file and mail the modified plan and this motion. Those services are purely secretarial or clerical in nature, and thus, are not compensable. See Sousa v. Miguel, 32 F.3d 1370, 1374 (9th Cir. 1994). As such, the court will grant the motion in part by minute order, awarding fees in the amount of \$893.75. No appearance is necessary.

19. 13-91970-D-13 JEAN VAUGHAN MOTION TO CONFIRM PLAN  
CJY-1 2-11-14 [25]

**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.

20. 13-90374-D-13 CHARLES/KIMBERLY VAN MOTION TO VALUE COLLATERAL OF  
CJY-3 PETTEN INTERNAL REVENUE SERVICE  
3-10-14 [37]

**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. As such the court will grant the motion and, for purposes of this motion only, sets the creditor's secured claim in the amount set forth in the motion. Moving party is to submit an order which provides that the creditor's secured claim is in the amount set forth in the motion. No further relief is being afforded. No appearance is necessary.

21. 13-92182-D-13 MARK/CINDY HARLAN MOTION FOR RELIEF FROM  
ADR-1 AUTOMATIC STAY AND/OR MOTION  
LAWRENCE KELSO VS. FOR ADEQUATE PROTECTION  
3-6-14 [26]

22. 14-90082-D-13 HENRY/CHERYL PETRINO MOTION TO VALUE COLLATERAL OF  
BSH-1 ACURA FINANCIAL SERVICES  
3-13-14 [14]

23. 14-90082-D-13 HENRY/CHERYL PETRINO MOTION TO VALUE COLLATERAL OF  
BSH-2 WELLS FARGO FINANCIAL  
CALIFORNIA, INC.  
3-13-14 [19]

24. 11-93485-D-13 JUAN/MARYLU GUTIERREZ MOTION TO MODIFY PLAN  
TOG-2 2-17-14 [45]

25. 12-91595-D-13 MARGARET HAGAN MOTION TO MODIFY PLAN  
CJY-9 2-27-14 [110]

**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. 11-91296-D-13 TODD/YOLANDA MALDONADO MOTION TO MODIFY PLAN  
CJY-5 2-20-14 [47]

**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.

|     |                        |                        |  |
|-----|------------------------|------------------------|--|
| 27. | 10-94097-D-13<br>JDP-1 | AMADO/IGNACIA JIMENEZ  | MOTION TO VALUE COLLATERAL OF<br>WELLS FARGO BANK, N.A.<br>3-13-14 [28]                |
| 28. | 09-90315-D-13<br>JCK-8 | THOMAS/VIVIAN ANDERSON | MOTION TO INCUR DEBT<br>3-20-14 [78]   |
| 29. | 09-90315-D-13<br>JCK-7 | THOMAS/VIVIAN ANDERSON | MOTION TO INCUR DEBT<br>3-20-14 [83]   |
| 30. | 13-91543-D-13<br>DCJ-4 | SEAN AMIN              | MOTION TO VALUE COLLATERAL OF<br>U.S. SMALL BUSINESS<br>ADMINISTRATION<br>3-25-14 [56] |



31. 09-92984-D-13 LINDA GERTHS  
14-9013  
GERTHS V. U.S. BANK, N.A.

ORDER TO SHOW CAUSE RE  
DISMISSAL  
3-18-14 [7]

**Final ruling:**

The deficiency has been corrected. As a result the court will issue a minute order discharging the order to show cause and the case will remain open. No appearance is necessary.

32. 11-92285-D-13 SUE JORDAN  
CJY-1

CONTINUED MOTION TO MODIFY PLAN  
2-17-14 [43]

33. 10-90391-D-13 JOSE/FILIGONIA DIAZ  
TOG-11

OBJECTION TO CLAIM OF MEMORIAL  
MEDICAL CENTER, CLAIM NUMBER 11  
3-18-14 [41]

**Final ruling:**

This is the debtors' objection to the claim of Memorial Hospital Association, Claim No. 11. The objection will be overruled for the following reasons: (1) the moving parties gave only 21 days' notice of the hearing, whereas the minimum amount of notice required for an objection to a claim is 30 days (see LBR 3015-1(b)(2)); and (2) the proof of service evidences service of the objection and exhibits, but not the notice of hearing.

Two other points bear mention. First, it is clear from Claim Nos. 10 and 11 and the attachments to them that each is a duplicate of the other. The debtors have objected to Claim No. 11 as a duplicate of Claim No. 10. However, the court notes that Claim No. 10 is not signed by or on behalf of the claimant, whereas Claim No. 11 is signed. Thus, although Claim No. 11 does not indicate that it is intended to amend Claim No. 10, it appears Claim No. 11 was intended to be the actual claim. In the event of a future objection to claim, the court would be inclined to sustain an objection to Claim No. 10, leaving Claim No. 11 as is. (Claim No. 11 was filed before the claims bar date, and should be the one to stand, given that the other claim is not signed.)

Second, the notice of hearing is signed by Valerie Johnson, whereas the State Bar's website does not disclose a licensed attorney by that name. Valerie Johnson also signed the moving parties' proof of service; thus, the court assumes she is acting in a paralegal or other capacity, and is not an attorney. The court's rules do not provide for a non-attorney to sign documents on behalf of the attorneys they work for.

As a result of the service and notice defects noted above, the objection will be overruled by minute order. No appearance is necessary.

34. 14-90091-D-13 ALFREDO/DIANA OCHOA  
RDG-1

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
3-14-14 [22]