

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

April 15, 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.	14-20100 -D-13	VENISA WOOLDRIDGE	OBJECTION TO DEBTOR'S CLAIM OF
	RDG-3		EXEMPTIONS
			2-24-14 [38]

Final ruling:

This case was dismissed on March 21, 2014. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

2. [14-20104](#)-D-13 LEI/JAMES BAIDOO

MOTION TO CONFIRM PLAN
3-7-14 [[27](#)]

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 papers do not include a docket control number, as required by LBR 9014-1(c); (2) the moving parties gave only 39 days' notice of the hearing rather than 42 days', as required by LBR 3015-1(d)(1) and applicable rules; and (3) the moving parties failed to serve the creditor that filed Claim No. 3 at the address on its proof of claim, as required by Fed. R. Bankr. P. 2002(g)(1). As a result of these service and other procedural defects, the motion will be denied, and the court need not consider the trustee's objections at this time.

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

3. [11-23711](#)-D-13 ANNETTE BROWDER
JCK-2

MOTION TO MODIFY PLAN
3-12-14 [[67](#)]

Final ruling:

This is the debtor's motion to confirm a modified chapter 13 plan. The motion will be denied because the moving party failed to serve Robert O. Hardwick, listed on her Schedule F, as required by 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.

4. [14-20714](#)-D-13 JUAN HERNANDEZ AND MARIA
MDE-1 ROMAN

OBJECTION TO CONFIRMATION OF
PLAN BY WELLS FARGO BANK, N.A.
3-19-14 [[19](#)]

5. [14-20714](#)-D-13 JUAN HERNANDEZ AND MARIA
MDE-2 ROMAN

OBJECTION TO CONFIRMATION OF
PLAN BY WELLS FARGO BANK, N.A.
3-19-14 [[22](#)]

6. [14-20714](#)-D-13 JUAN HERNANDEZ AND MARIA
RDG-1 ROMAN
OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
3-14-14 [[16](#)]

7. [10-50221](#)-D-13 DARYL REBERO
MLP-3
MOTION TO MODIFY PLAN
3-7-14 [[53](#)]

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.

8. [13-30622](#)-D-13 TIMMY/NORELI HUYNH
JBC-1
MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH TIM HUYNH
2-28-14 [[28](#)]

Final ruling:

This is the motion of creditors Brian Sytsma and Matt Hooper for an order compelling the trustee to abandon the interest of debtor Tim Huynh in certain real property. The motion will be denied because the moving parties failed to serve the motion in compliance with applicable rules.

Fed. R. Bankr. P. 6007(a) requires the trustee or debtor in possession to "give notice of a proposed abandonment or disposition of property to the United States trustee [and] all creditors" On the other hand, Fed. R. Bankr. P. 6007(b) provides that "[a] party in interest may file and serve a motion requiring the trustee or debtor in possession to abandon property of the estate." Ostensibly, the latter subparagraph does not require that notice be given to all creditors, even though the former does. A motion under subparagraph (b), however, should generally

be served on the same parties who would receive notice under subparagraph (a) of Fed. R. Bankr. P. 6007. See In re Jandous Elec. Constr. Corp., 96 B.R. 462, 465 (Bankr. S.D.N.Y. 1989) (citing Sierra Switchboard Co. v. Westinghouse Elec. Corp., 789 F.2d 705, 709-10 (9th Cir. 1986)). Here, the moving parties failed to serve: (1) the creditors filing Claim Nos. 6 and 7 at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g)(1); (2) the creditor filing a request for special notice at DN 15 at its designated address, as required by Fed. R. Bankr. P. 2002(g)(1); and (3) Bank of America, as listed for three claims on the debtors' Schedule F, and Cal HFA, listed on their Schedule D - creditors that have not filed proofs of claim in this case, at their addresses on the debtors' schedules, as required by Fed. R. Bankr. P. 2002(g)(2) (or at all).

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

9. [13-30622](#)-D-13 TIMMY/NORELI HUYNH MOTION TO COMPEL ABANDONMENT
JBC-1 3-11-14 [[32](#)]

Final ruling:

This is the motion of creditors Brian Sytsma and Matt Hooper for approval of their compromise with debtor Tim Huynh. The motion will be denied because it was not served in compliance with applicable rules. The moving parties served only the debtors, their attorney, the chapter 13 trustee, and the United States Trustee, and failed to serve all creditors, as required by Fed. R. Bankr. P. 9019(a) and 2002(a)(3).

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

10. [13-35922](#)-D-13 ROBERT/JEANNETTE RUNTAL MOTION TO CONFIRM PLAN
PJE-1 2-25-14 [[20](#)]

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 failed to serve several creditors filing claims in this case at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g)(1); (2) the moving parties failed to serve the creditor requesting special notice at DN 15 at its designated address, as required by the same rule; and (3) the proof of service does not contain a caption, as required by the Revised Guidelines for the Preparation of Documents (rev. 1/17/14), or a docket control number, as required by 9014-1(c)(1) and (e)(3). As a result of these service and other procedural defects, the motion will be denied, and the court need not consider the trustee's objections at this time.

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

11. [14-20022](#)-D-13 DULCE MANCINAS OBJECTION TO DEBTOR'S CLAIM OF
RDG-3 EXEMPTIONS
2-24-14 [[26](#)]

Final ruling:

This case was dismissed on March 21, 2014. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

12. [14-20422](#)-D-13 RUDERIC DUHAYLONGSOD OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
3-14-14 [[17](#)]

Final ruling:

Objection withdrawn by moving party on April 4, 2014. Matter removed from calendar.

13. [10-50526](#)-D-13 ELMER/MICHELLE CAMPBELL MOTION TO MODIFY PLAN
JCK-3 3-12-14 [[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.

14. [14-20726](#)-D-13 DANNY ACAIN MOTION TO EXTEND AUTOMATIC STAY
GMY-1 2-25-14 [[22](#)]

Final ruling:

This is the debtor's motion to impose the automatic stay pursuant to § 362(c)(4) of the Bankruptcy Code as to certain creditors named in the motion. The motion will be denied because there is no proof of service on file; thus, there is no evidence the named creditors were served. Further, there is no evidence the

chapter 13 trustee was served. The moving party would be unable to cure these defects by filing a proof of service at this late date, because the applicable rule requires that proofs of service be filed not more than three days after the documents that were served are filed. LBR 9014-1(e)(2).

The motion will be denied for the additional independent reason that the debtor has failed to rebut, by clear and convincing evidence, the presumption that the case was not filed in good faith, as required by § 362(c)(4)(B) and (D). The motion and supporting declaration state that within the year prior to the filing of this case, the debtor was the debtor in two other bankruptcy cases that were dismissed other than under § 707(b). In fact, there were three such cases - the two listed by the debtor in this motion and Case No. 12-41183.1 The first of those three, Case No. 12-41183, was dismissed for failure to timely file schedules, statements, and a chapter 13 plan. The next case, Case No. 13-22183, was dismissed after the trustee opposed the debtors' original and amended chapter 13 plans, and the debtors were unable to obtain confirmation of either plan. The most recent prior case, Case No. 13-31873, was dismissed after the debtors defaulted on the terms of the proposed amended plan before it was confirmed.

The debtor in his declaration supporting this motion describes the changes that would allegedly result in a successful chapter 13 plan in this case as (1) a modification of the first position mortgage loan on the debtor's residence, and (2) the debtor's spouse's move to Chicago to obtain employment there. However, in Case No. 13-22183, the debtor and his spouse sought confirmation of an amended plan that was based on a budget that included anticipated future income of the debtor's spouse at \$1,935 per month net and a mortgage payment of \$1,276 per month - the former figure is higher than the amount the spouse is actually netting now that she is employed, and the latter is the amount of the mortgage payment as reduced by way of the loan modification. In other words, the plan in the prior case was based on figures the debtor now describes as expected changes that allegedly will enable him to complete a plan in this case. Yet the debtors were unable to obtain confirmation of their plan in the prior case.

In the present case, the trustee has objected to confirmation of the debtors' original plan on six different grounds, including that the debtor's Schedule J did not include any expenses for his spouse, who lives in Chicago. In response, the debtor filed an amended Schedule J on which he added her expenses, as follows: \$150 for rent, \$150 for food, and \$100 for transportation, with no allowances for utilities, clothing, laundry, medical and dental, or insurance of any kind. The court understands the debtor's spouse is living with her sister in Chicago, and therefore, her expenses may be expected to be minimal; however, these expenses appear too meager to be realistic. At the same time, less than two months after his original schedules were filed, the debtor amended his original Schedule J, which covered his own and his two children's expenses, adjusting some up and some down - including increasing their medical and dental expense from \$200 to \$400 and decreasing their transportation expense from \$500 to \$200 - without explanation.

The debtor has also filed an amended Schedule D in which he discloses a 401(k) loan in the amount of \$21,227 he took out on June 21, 2013, three weeks after the debtor and his spouse filed a motion to confirm an amended plan in their prior case and four days after the trustee filed opposition to that motion. The debtor did not obtain court approval to incur new debt before taking out that loan. The debtor has filed an amended Schedule I in this case, in which he discloses he is paying \$574 per month on the 401(k) loan. Neither the \$21,227 loan nor the \$574 monthly payment was disclosed on the debtor's original Schedules D and I in this case.

In short, based on the record in this and the prior cases, the court is not persuaded that the present case was filed in good faith, and the debtor's declaration supporting this motion falls far short of providing clear and convincing evidence to the contrary. Accordingly, the motion will be denied.

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

1 This is the sixth case filed in the past four years in which the debtor has been a debtor. In the first of those, the debtor and his spouse, as joint debtor, proposed a chapter 13 plan that was opposed by the trustee. After confirmation was denied, the debtors converted the case to chapter 7 and obtained a discharge. In the second case, the debtor and his spouse obtained confirmation of a plan, but defaulted in less than a year.

15.	14-20726 -D-13	DANNY ACAIN	OBJECTION TO CONFIRMATION OF
	RDG-1		PLAN BY RUSSELL D. GREER
			3-14-14 [26]

16.	13-34427 -D-13	VICTOR ENRIQUEZ	MOTION TO CONFIRM PLAN
	TOG-2		2-18-14 [46]

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.

17.	14-20730 -D-13	CLEOPATRA CAYENNE	OBJECTION TO CONFIRMATION OF
	RDG-1		PLAN BY RUSSELL D. GREER
			3-14-14 [15]

18. [14-20533](#)-D-13 JACOB WINDING
RDG-2
OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
3-14-14 [[25](#)]
19. [14-20533](#)-D-13 JACOB WINDING
SRM-1
AMENDED OBJECTION TO
CONFIRMATION OF PLAN BY
ALLSTATE INSURANCE COMPANY
3-20-14 [[32](#)]
20. [11-36435](#)-D-13 DAVID ROSS AND SONJA
TBK-8 LEWIS
CONTINUED MOTION TO LIFT STAY
TO PERMIT DIVORCE ACTION
2-26-14 [[142](#)]

SONJA LEWIS DISMISSED
11/10/11
21. [14-21035](#)-D-13 QUANG NGUYEN
DAT-2
MOTION TO VALUE COLLATERAL OF
BANK OF AMERICA, N.A.
3-12-14 [[25](#)]

Final ruling:

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

22. [14-20036](#)-D-13 MICAELA TORRES OBJECTION TO DEBTOR'S CLAIM OF
RDG-2 EXEMPTIONS
2-24-14 [[42](#)]

Tentative ruling:

This is the trustee's objection to the debtor's claim of exemptions. On March 11, 2014, the debtor filed a purported amended Schedule C. Ordinarily, the filing of an amended Schedule C renders an objection to exemptions moot. However, here, the purported amended Schedule C was not filed under cover of an Amendment Cover Sheet, EDC Form 2-015, signed by the debtor, and was not otherwise verified by the debtor, as required by Fed. R. Bankr. P. 1008; therefore, it did not qualify as a claim of exemptions by the debtor.

For the reason stated, the court intends to sustain the objection. The court will hear the matter.

23. [13-33038](#)-D-13 ALBERT/RITA DE GUZMAN MOTION TO CONFIRM PLAN
GPH-4 2-25-14 [[84](#)]

Final ruling:

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied because the moving parties failed to serve several creditors filing claims in this case at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g)(1). As a result of this service defect, the motion will be denied, and the court need not consider the trustee's objection at this time.

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

24. [14-20539](#)-D-13 HERMAN WILLIAMS OBJECTION TO CONFIRMATION OF
BHT-1 PLAN BY WELLS FARGO BANK, N.A.
3-19-14 [[29](#)]

Final ruling:

This case was dismissed on March 21, 2014. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

25. [14-20539](#)-D-13 HERMAN WILLIAMS OBJECTION TO CONFIRMATION OF
RDG-2 PLAN BY RUSSELL D. GREER
3-14-14 [[26](#)]

Final ruling:

This case was dismissed on March 21, 2014. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

26. [10-29942](#)-D-13 ALAN/LADONNA TORRES MOTION TO MODIFY PLAN
PLG-1 2-28-14 [[97](#)]

27. [13-31842](#)-D-13 RONALD/MARILETH JAMORABON CONTINUED MOTION TO CONFIRM
LTF-1 PLAN
12-2-13 [[32](#)]

28. [14-20345](#)-D-13 ERIC BROWN OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
3-14-14 [[16](#)]

29. [14-22149](#)-D-7 TERRYLYN MCCAIN
WSS-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
3-11-14 [[9](#)]

VANZETTI PROPERTIES, LP VS.

Final ruling:

As this case has been converted to a Chapter 7, the hearing on this motion is continued to April 16, 2014 at 10:00 a.m. No appearance is necessary on April 15, 2014.

30. [13-34853](#)-D-13 JUDY FOSTER
JCK-3

MOTION TO CONFIRM PLAN
2-24-14 [[44](#)]

31. [13-23456](#)-D-13 DANIEL/JEANETTE MONTANO
JCK-2

MOTION TO MODIFY PLAN
3-4-14 [[36](#)]

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.

32. [13-35356](#)-D-13 ESTHER/MAURILIO GOMEZ
JM-1

MOTION TO CONFIRM PLAN
2-26-14 [[48](#)]

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 papers include a docket

control number that has been used in this case for a previous motion, contrary to LBR 9014-1(c)(3); and (2) the plan provides for the claim of Nationstar Mortgage, secured by a second mortgage, at \$0, whereas the debtors have failed to obtain an order valuing the collateral securing the claim, as required by LBR 3015-1(j). For these reasons, the motion will be denied by minute order. No appearance is necessary.

33. [13-24557](#)-D-13 ZENAIDA HERRERA
HWW-5

MOTION TO MODIFY PLAN
3-5-14 [[57](#)]

Final ruling:

This is the debtor's motion to confirm a modified chapter 13 plan. The motion will be denied because the moving party failed to serve Sonny P. Herrera, listed on the debtor's Schedule H as a co-debtor. The debtor was required to list Sonny P. Herrera on her master address list (Fed. R. Bankr. P. 1007(a)(1)), which she did not do, and given the very broad definitions of "creditor" and "claim" under the Bankruptcy Code (§ 101(5) and (10)), this individual 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, and the court need not consider the trustee's objection at this time.

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

34. [11-36362](#)-D-13 LEON/JOYCE HENIFIN
JCK-3

MOTION TO MODIFY PLAN
2-28-14 [[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.

35. [13-34967](#)-D-13 ERNESTO/MARIA ESTRADA
IRS-1

OBJECTION TO CONFIRMATION OF
PLAN BY INTERNAL REVENUE
SERVICE
3-7-14 [[53](#)]

Final ruling:

Objection withdrawn by moving party. Matter removed from calendar.

36. [13-34967](#)-D-13 ERNESTO/MARIA ESTRADA OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
3-14-14 [[62](#)]

37. [12-25179](#)-D-13 LARRY/CARRIE STAMPER MOTION TO MODIFY PLAN
JCK-3 3-11-14 [[53](#)]

38. [13-36179](#)-D-13 ROMEO/JENNY HERNANDEZ MOTION TO CONFIRM PLAN
JCK-3 2-21-14 [[35](#)]

Final ruling:

This is the debtors' motion to confirm a modified chapter 13 plan. The motion will be denied because the mailing matrix attached to the proof of service is from an entirely different case; thus, the creditors in this case have not been served. As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.

39. [13-32080](#)-D-13 DARLINA ALMEDA MOTION TO MODIFY PLAN
JCK-1 3-6-14 [[16](#)]

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. [12-35682](#)-D-13 CHARLES/TAMMY CARSTERSEN CONTINUED OBJECTION TO DEBTORS'
RDG-2 CLAIM OF EXEMPTIONS
12-13-13 [[133](#)]

41. [13-35783](#)-D-13 ALDRICH FLORES AND KAREN MOTION TO CONFIRM PLAN
MDL-3 VIGILIA 2-25-14 [[40](#)]

Final ruling:

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied because the moving parties failed to utilize an up-to-date mailing matrix, and thus, failed to serve all creditors who had, by the time the motion was served, filed proofs of claim at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g). Included among those not served at the correct address was the holder of the first deed of trust against the debtors' residence, which is their largest creditor.

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

42. [10-20388](#)-D-13 VICENTE/MARY ZABALA MOTION FOR COMPENSATION FOR
CJY-7 CHRISTIAN J. YOUNGER, DEBTORS'
ATTORNEY(S)
2-26-14 [[104](#)]

Tentative ruling:

This is the motion of the debtors' counsel in this case ("Counsel") for additional attorney's fees. Counsel requests approval of \$1,945.81 in addition to the \$3,500 Counsel has already received. Although no party has filed opposition, the court has an independent duty to review all requests for compensation and to determine their reasonableness pursuant to § 329 of the Bankruptcy Code.

Section 330 of the Code sets out the standards by which courts should determine the reasonableness of fees under § 329; reasonableness is determined by looking at the nature, extent, and value of the services rendered. See In re Eliapo, 298 B.R. 392, 401 (9th Cir. BAP 2003). Section 330(a)(3) of the Code states that in determining the amount of reasonable compensation, the court should consider the nature, extent, and value of the services performed, taking account of all relevant factors, including the time spent on the services, the rates charged, and the customary compensation of comparably skilled attorneys in other cases.

Reviewing fee applications on a line-by-line basis is an undesirable task. However, in cases such as this, where requested fees for a chapter 13 case exceed

the "no-look" fee applicable at the time the case was filed by such a significant amount (\$5,445 versus \$3,500), the court must take a close look at the fees charged to determine their reasonableness, regardless as to how desirable the task may be.

The court finds that Counsel's hourly rate, \$250, is reasonable, and the court does not have an issue with the quality of Counsel's services. With that said, the court does have concerns over whether the amount of time charged for specific tasks is reasonable. 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 is also concerned that Counsel has billed for legal assistants' time, at \$75 per hour, for services that appear to be secretarial in nature, which are, therefore, not compensable. See Sousa v. Miguel, 32 F.3d 1370, 1374 (9th Cir. 1994). Specifically, on several occasions, Counsel billed for its legal assistants' time spent filing and serving motions. In each instance, the legal assistant "lumped" the time spent on that task with time spent preparing supporting documents and meeting with the debtor; the court is unable to segregate the non-compensable time. Further, in each instance, the legal assistant did not identify what supporting documents he or she prepared, and there is no indication his or her meeting with the client was for anything more than simply obtaining the client's signature on a declaration.

For the reasons stated, the court finds that the amounts billed for the legal assistants' time for the services described above was not reasonable, and will reduce the fee request by the total billed, \$187.50.¹ Thus, the court will approve additional fees of \$1,758.31. The court will hear the matter.

¹ This is the total amount billed for the legal assistants' services on 1/11/10, 5/11/10, 7/2/10, 12/6/10, and 5/19/11.

44. [14-20591](#)-D-13 STEVEN TUCKER
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
3-14-14 [[35](#)]

45. [10-48696](#)-D-13 ALFREDO/TERESITA TORRES
SS-4

MOTION TO VALUE COLLATERAL OF
CITIBANK, N.A.
3-11-14 [[103](#)]

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.

46. [13-36096](#)-D-13 ROSE RAMIREZ
JCK-2

MOTION TO CONFIRM PLAN
2-27-14 [[35](#)]

Final ruling:

This case was dismissed on April 7, 2014. As a result the motion will be denied by minute order as moot. No appearance is necessary.

47. [12-20497](#)-D-13 WAYNE/CYNTHIA JACKSON
JCK-4

MOTION TO SELL
3-20-14 [[61](#)]

48. [13-32907](#)-D-13 MINDY LOPEZ CONTINUED MOTION TO CONFIRM
JBR-2 PLAN
2-15-14 [[37](#)]
49. [14-22215](#)-D-13 PAMELA MATHIS MOTION FOR CONSENT TO ENTER
CJO-1 INTO LOAN MODIFICATION
AGREEMENT
3-26-14 [[23](#)]
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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.