

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Modesto, California

August 13, 2013 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.	13-90900-D-13 GJS-3	CLIFF/CARMOLETTA FERRELL	MOTION TO VALUE COLLATERAL OF UNION BANK 7-10-13 [19]
----	------------------------	--------------------------	---

Final ruling:

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

2. 11-90202-D-13 PAULETTE ROBERTS MOTION TO MODIFY PLAN  
CJY-3 7-8-13 [44]

3. 13-91202-D-13 GEORGE/KRISTIN CASEY MOTION TO VALUE COLLATERAL OF  
JDP-1 BANK OF AMERICA, N.A.  
6-27-13 [8]

**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.

4. 13-90604-D-13 SERGIO/LORENA CHAVEZ CONTINUED MOTION TO VALUE  
CJY-2 COLLATERAL OF EAST-WEST BANK  
5-15-13 [27]

**Final ruling:**

**Motion withdrawn by moving party.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

5. 13-90604-D-13 SERGIO/LORENA CHAVEZ CONTINUED OBJECTION TO  
DWE-1 CONFIRMATION OF PLAN BY EAST  
WEST BANK  
5-22-13 [32]

**Final ruling:**

**Objection withdrawn by moving party.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

6. 12-92505-D-13 DOLORES THOMPSON MOTION TO APPROVE LOAN  
DEF-8 MODIFICATION  
6-24-13 [127]

**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 approve loan modification is supported by the record. As such the court will grant the motion to approve loan modification by minute order. No appearance is necessary.

7. 13-91005-D-13 WILLIAM/SUZETTE CLARK MOTION TO VALUE COLLATERAL OF  
RLF-1 BANK OF AMERICA, N.A.  
7-11-13 [16]

**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.

8. 13-90509-D-13 CARL MARLER MOTION TO CONFIRM PLAN  
CAH-1 6-19-13 [32]

9. 10-93313-D-13 CAROL GOEHRING MOTION TO MODIFY PLAN  
CJY-4 7-1-13 [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.

10. 10-93313-D-13 CAROL GOEHRING  
JDP-1

MOTION TO VALUE COLLATERAL OF  
BANK OF AMERICA, N.A.  
7-1-13 [60]

**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.

11. 12-92713-D-13 LIESEL/ROBIN WELD  
JAD-2

MOTION TO MODIFY PLAN  
7-1-13 [36]

12. 13-90417-D-13 JASON BROWN  
DCJ-2

MOTION TO CONFIRM PLAN  
6-20-13 [31]

**Final ruling:**

This case was dismissed on June 26, 2013. As a result the motion will be denied by minute order as moot. No appearance is necessary.

13. 12-93218-D-13 MELVIN/KATHERINE JOHNSON  
SSA-3

MOTION TO CONFIRM PLAN  
6-25-13 [86]

**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. 10-92719-D-13 ERVIN/ANA RICHARDS AMENDED MOTION TO MODIFY PLAN  
GJS-2 6-26-13 [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.

15. 13-90620-D-13 ALFREDO/ANGELICA MOTION TO CONFIRM PLAN  
PGM-2 VELASQUEZ 6-27-13 [59]

16. 13-90620-D-13 ALFREDO/ANGELICA MOTION TO VALUE COLLATERAL OF  
PGM-3 VELASQUEZ MERCHANTS ACCEPTANCE  
CORPORATION  
6-27-13 [65]

**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.

17. 13-90820-D-13 ROBERT/PAMELA WILLIAMS MOTION TO CONFIRM PLAN  
CLH-2 6-25-13 [28]

**Final ruling:**

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied because, whereas the debtors' declaration indicates that one of the reasons for the filing of the motion is that they had "discovered two additional creditors that had to be added," those two creditors, added to the debtors' Schedule F by amendment filed June 25, 2013, were not served with this motion. The court notes also that, so far as the record reveals, those creditors have never been served with the notice of commencement of this case or with any document filed in this case.

As a result of this service defect, 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.

18. 11-92822-D-13 EDWARD/SHIRLEY ALCANTAR MOTION TO MODIFY PLAN  
JCK-6 7-2-13 [93]

**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.

19. 11-92822-D-13 EDWARD/SHIRLEY ALCANTAR MOTION TO INCUR DEBT  
JCK-7 7-2-13 [99]

**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 incur debt is supported by the record. As such the court will grant the motion to incur debt by minute order. No appearance is necessary.

20. 13-91024-D-13 BRUCE VELTHOEN MOTION TO VALUE COLLATERAL OF  
BSH-1 CITIMORTGAGE  
6-25-13 [14]

**Final ruling:**

This is the debtor's motion to value collateral of CitiMortgage, Inc., consisting of a second position deed of trust against the real property at 2009 Terrance Way, Modesto, California. Green Tree Servicing ("Green Tree") has filed opposition to the motion. For the following reasons, the motion will be denied.

Despite the fact that Green Tree has filed opposition - as the holder of the first deed of trust against the property, it appears to the court that the target of the motion is actually CitiMortgage, Inc., as holder of the second deed of trust. The first line of the motion is: "To Officer, General Manager, Agent for Service of Process for CitiMortgage." The first sentence is: "Bruce Velthoen, debtor(s) in the above-referenced matter, move(s) the Court, pursuant to 11 U.S.C. § 506(a), for an order valuing real property securing only a first deed of trust with Green Tree Servicing Lending[,] leaving a second deed of trust completely unsecured with Citimortgage." The notice of hearing states that the debtor is asking the court to value the collateral of CitiMortgage; it does not mention Green Tree. And the proof of service indicates that the debtor served (or attempted to serve - see below) only CitiMortgage, and not Green Tree. Thus, it appears the motion is directed to CitiMortgage, not Green Tree. This conclusion is supported by the fact that the debtor has since filed a separate motion seeking to value the property for the purpose of valuing Green Tree's claim. The court would add that the motion was sufficiently unclear to confuse Green Tree; any subsequent motion directed to CitiMortgage should clarify that the debtor is seeking to value the property at an amount that will leave CitiMortgage's claim completely unsecured.

The motion will be denied because the debtor failed to serve CitiMortgage in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The debtor served CitiMortgage by certified mail addressed "to an officer of the institution." This method was insufficient because service on a corporation that is not an FDIC-insured institution must be by first-class mail, not certified mail.

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

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

21. 13-91024-D-13 BRUCE VELTHOEN  
PD-1

OBJECTION TO CONFIRMATION OF  
PLAN BY GREEN TREE SERVICING,  
LLC  
7-11-13 [21]

22. 10-90229-D-13 LARRY/JUDY HEIN  
CJY-1

MOTION TO MODIFY PLAN  
6-25-13 [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.

23. 13-25229-D-13 JUAN/GLORIA RODRIGUEZ MOTION TO CONFIRM PLAN  
TOG-2 6-19-13 [38]

**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.

24. 13-90431-D-13 JEMIS/ELIZABETH SEPORGHAN MOTION TO CONFIRM PLAN  
JCK-4 6-28-13 [48]

25. 13-90833-D-13 DONALD/SHERRY MORROW MOTION TO CONFIRM PLAN  
TBK-1 7-1-13 [15]

**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. 12-92535-D-13 TERRY/SUSAN COOK MOTION TO MODIFY PLAN  
JAD-1 6-25-13 [38]

27. 13-90940-D-13 SCOTT/LYNNETTE DUNCAN OBJECTION TO CONFIRMATION OF  
RDG-3 PLAN BY RUSSELL D. GREER  
7-12-13 [28]

**Final ruling:**

**This case was dismissed on July 26, 2013. As a result the objection will be overruled by minute order as moot. No appearance is necessary.**

28. 09-93641-D-13 JUAN/BREANNE GONZALEZ MOTION TO VALUE COLLATERAL OF  
JDP-1 BANK OF AMERICA, N.A.  
7-10-13 [49]

**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.**

29. 10-90042-D-13 GEORGE/KELLY CERNY MOTION TO MODIFY PLAN  
CJY-6 7-3-13 [88]

**Final ruling:**

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

30. 12-92944-D-13 FELIX OJEDA MOTION TO CONFIRM PLAN  
TOG-5 6-21-13 [72]

**Final ruling:**

**This case was dismissed on July 2, 2013. As a result the motion will be denied by minute order as moot. No appearance is necessary.**

31. 13-90544-D-13 JOSEPH/RAECHEL BAIROS MOTION TO CONFIRM PLAN  
CJY-1 6-12-13 [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.**

32. 09-91345-D-13 CLAUDIA WATKINS-FLAMAN AMENDED MOTION TO SELL  
SSA-2 6-17-13 [55]

**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 sell is supported by the record. As such the court will grant the motion to sell. Moving party is to submit an appropriate order authorizing the sale under § 363(b) of the Bankruptcy Code. No appearance is necessary.

33. 13-90947-D-13 JAIME MUNGUIA OBJECTION TO CONFIRMATION OF  
CWC-1 PLAN BY MELVIN MYERS AND  
VICTORIA MYERS  
7-17-13 [38]

**Final ruling:**

This case was dismissed on July 26, 2013. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

34. 13-90947-D-13 JAIME MUNGUIA OBJECTION TO CONFIRMATION OF  
RDG-3 PLAN BY RUSSELL D. GREER  
7-12-13 [31]

**Final ruling:**

This case was dismissed on July 26, 2013. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

35. 13-90947-D-13 JAIME MUNGUIA OBJECTION TO CONFIRMATION OF  
SSA-1 PLAN BY ROGELIO LUNA  
7-9-13 [24]

**Final ruling:**

This case was dismissed on July 26, 2013. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

36. 13-90251-D-13 TODD/ROSIE JONES MOTION TO CONFIRM PLAN  
PLG-3 6-24-13 [64]

**Final ruling:**

This case was dismissed on June 26, 2013. As a result the motion will be denied by minute order as moot. No appearance is necessary.

37. 10-95054-D-13 TONY/ANOMA FONTES MOTION TO MODIFY PLAN  
BSH-5 6-19-13 [71]

38. 13-91157-D-13 MARTIN PRICE MOTION TO VALUE COLLATERAL OF  
DEF-1 BANK OF AMERICA HOME LOANS  
6-26-13 [10]

**Final ruling:**

This is the debtor's motion to value collateral of Bank of America Home Loans, as servicing agent for Bank of America. The motion will be denied for the following reasons. First, the motion references Bank of America as holder of the second deed of trust in the opening paragraph, but as Green Tree Services in paragraph 4. Second, the declaration is not signed by the debtor; thus, the motion is not supported by evidence establishing its factual allegations and demonstrating that the moving party is entitled to the relief requested, as required by LBR 9014-1(d)(6). Third, the notice of hearing states that the debtor seeks an order valuing the collateral in the amount of \$280,000, "and the balance of the second deed of trust to be treated as a general unsecured claim," which suggests that some portion of the claim is to be treated as secured, whereas the court believes the debtor is actually seeking to have the entirety of the claim secured by the deed of trust treated as a general unsecured claim.

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

39. 10-52359-D-13 JORDAN/CHERYL BALATAYO MOTION TO MODIFY PLAN  
PLG-1 6-26-13 [31]

**Final ruling:**

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

40. 10-94765-D-13 WARLITO/CHRISY MOTION TO SELL  
CJY-2 MERAFUENTES 7-2-13 [93]

**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 sell is supported by the record. As such the court will grant the motion to sell. Moving party is to submit an appropriate order authorizing the sale under § 363(b) of the Bankruptcy Code. No appearance is necessary.

41. 13-91065-D-13 SHAWNTE PRIEST OBJECTION TO CONFIRMATION OF  
MRG-1 PLAN BY CAPITAL ONE AUTO  
FINANCE  
6-25-13 [18]

42. 10-93066-D-13 LARRY/SUE OSBORNE MOTION TO VALUE COLLATERAL OF  
JDP-1 BANK OF AMERICA, N.A.  
6-27-13 [60]

**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.

43. 10-90968-D-13 IGNACIO/MARIA CHAVEZ MOTION TO APPROVE LOAN  
CJY-1 MODIFICATION  
7-15-13 [64]

44. 13-90270-D-13 JAIME RIVERA MOTION TO CONFIRM PLAN  
YG-3 6-21-13 [68]

**Final ruling:**

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons. First, the moving party failed to serve the creditors filing Claim Nos. 1, 3, and 4 at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g). Second, the moving party failed to serve any of the three creditors requesting special notice in this case at their designated addresses, as required by the same rule. Third, the debtor failed to

serve Ron Resh, listed on the debtor's Schedule D as being owed \$38,995, at all, as required by Fed. R. Bankr. P. 2002(b). The debtor listed this creditor on Schedule D with no address; thus, this creditor has never received notice of this case, and the debtor has submitted no evidence that the debtor does not have and cannot reasonably obtain an address for this creditor.

Fourth, and highly significant, the motion incorrectly states, "It has been determined after notice and opportunity for a hearing that the debtor[']s plan satisfies the requirements of 11 U.S.C. Section 1325." Debtor's motion, filed June 21, 2013, at 1:26-27. This is not a true statement, and its inclusion in the motion would likely dissuade creditors from taking the time to object to the plan.

Finally, the notice of hearing includes language that is not derived from this court's local rules and that goes well beyond what is required by local rule. This language purports to require each interested party opposing, joining, or responding to the motion to file and serve, not later than 14 days before the hearing date, the following:

(i) a brief but complete written statement of all reasons in opposition thereto or in support or joinder thereof, and answering memorandum of points and authorities, declarations and copies of all photographs and documentary evidence upon which the responding party intends to rely. The opposing papers shall advise the adverse party that any reply to the opposition shall be filed with the Court and served on the opposing party not later than seven (7) calendar days (not excluding Saturdays, Sundays, and legal holidays) prior to the hearing on the motion; or (ii) a written statement that the motion will not be opposed.

Notice of hearing, filed June 21, 2013 ("Notice"), at 2:1-8. The applicable local rule requires only that the notice of hearing advise potential respondents whether and when written opposition must be filed, the deadline for filing and serving it, and the names and addresses of the persons who must be served. LBR 9014-1(d)(3). The rule does not give a moving party's attorney the prerogative to expand the scope of what must be contained in or filed with a responding party's opposition.

The notice of hearing also misstates the cautionary language required by the court's local rule, as follows:

You are further notified, pursuant to Local Bankruptcy Rule 9013-1(d)(3) [sic], papers not timely filed and served may be deemed by the court to consent to the granting or denial of the motion, as the case may be.

Notice, at 2:9-11. The applicable rule, LBR 9014-1(d)(3), is plain. It requires the notice of hearing to advise potential respondents that the failure to file timely written opposition may result in the motion being resolved without oral argument and the striking of untimely written opposition. The rule does not contemplate a moving party's counsel recasting the language in words of his or her own choosing.

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

45. 13-90173-D-13 JOHN/MELISSA GUZINSKI MOTION FOR RELIEF FROM  
TRM-104 AUTOMATIC STAY, MOTION FOR  
RELIEF FROM CO-DEBTOR STAY  
AND/OR MOTION FOR ADEQUATE  
PROTECTION  
7-9-13 [24]

BMW BANK OF NORTH AMERICA  
VS.

**Final ruling:**

This matter is resolved without oral argument. This is BMW Bank of North America's motion for relief from automatic stay. The court records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and the creditor's interest in the property is not adequately protected. Accordingly, the court finds there is cause for granting relief from stay. The court will grant relief from stay as to the debtor and any co-debtor. Moving party is to submit an appropriate order. There will be no further relief afforded. No appearance is necessary.

46. 10-92076-D-13 CHARLES/DEEANNE JESSUP MOTION TO MODIFY PLAN  
GJS-2 6-21-13 [50]

**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. 13-91078-D-13 DAVID/JENNIFER VOLFI MOTION TO VALUE COLLATERAL OF  
BSH-1 CHASE  
6-25-13 [8]

**Final ruling:**

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Chase 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 Wachovia Mortgage/World Savings and Loan's secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

48. 13-91078-D-13 DAVID/JENNIFER VOLFI MOTION TO VALUE COLLATERAL OF  
BSH-2 WELLS FARGO  
6-25-13 [12]

**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.

49. 09-91179-D-13 LANCE/TRINA GOBLIRSCH CONTINUED MOTION TO APPROVE  
BSH-6 LOAN MODIFICATION  
5-3-13 [117]

50. 09-91179-D-13 LANCE/TRINA GOBLIRSCH MOTION TO MODIFY PLAN  
BSH-7 6-18-13 [139]

**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.

51. 13-90581-D-13 JOHN/BARBARA GEORGE MOTION TO VALUE COLLATERAL OF  
MDA-1 PNC BANK, N.A.  
7-2-13 [21]

**Final ruling:**

This is the debtors' motion to value collateral of PNC Bank (the "Bank"). The motion will be denied because the moving papers are not sufficiently clear as to the nature of the relief requested. The motion and notice of hearing contain conflicting figures for the value of the property - \$175,000 in the motion versus \$212,629.96 in the notice. To complicate matters, the notice of hearing states that the debtors seek an order valuing the collateral in the amount of \$212,629.96, "and the balance of the second deed of trust to be treated as general unsecured claim,"

which suggests that some portion of the claim is to be treated as secured, whereas the court believes the debtors are actually seeking to have the entirety of the claim secured by the deed of trust treated as a general unsecured claim.

The court notes that the moving parties served the Bank by certified mail to the attention of a "Managing Officer," whereas the rule requires service simply to the attention of an officer. See Fed. R. Bankr. P. 7004(h). The court is not prepared to rule that service was improper; however, the better practice may be to serve the Bank using the precise language set forth in the rule.

Because the moving papers are insufficiently clear to give notice to the potential respondent of the nature of the relief requested, the motion will be denied by minute order. No appearance is necessary.

52. 12-90584-D-13 DEBBIE MILAM  
CJY-3

MOTION TO MODIFY PLAN  
6-24-13 [54]

53. 13-90085-D-13 CHRISTIAN/SANDRA GUITRON  
LRR-3

OBJECTION TO CLAIM OF JPMORGAN  
CHASE BANK, N.A., CLAIM NUMBER  
7  
6-12-13 [69]

**Final ruling:**

This is the debtors' objection to the claim of JPMorgan Chase Bank (the "Bank"). The objection will be overruled for the following reasons: (1) the moving parties failed to serve the Bank at the address on its proof of claim, as required by LBR 3007-1(c); and (2) the moving parties served only the objection and not the notice of hearing.

For the guidance of the parties in connection with any future objection, the court adds the following. The amount of the claim is \$378,810.91, which includes an alleged arrearage amount of \$4,661.40. It is clear from the objection that the only portion of the claim to which the debtors have an objection is the \$4,661.40 portion. Nevertheless, the objection concludes with a request that the claim be disallowed in its entirety. The debtors cite no authority for the proposition that an objection to a small portion of a claim, if sustained, justifies disallowing the claim in its entirety, and the court is aware of none.

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

54. 13-90085-D-13 CHRISTIAN/SANDRA GUITRON MOTION TO CONFIRM PLAN  
LRR-4 6-12-13 [73]

**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); and (2) the moving papers all state that the debtors are seeking confirmation of a "2nd Modified Chapter 13 Plan," whereas there is no such plan on file.

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

55. 11-93495-D-13 ABEL/JUNE GOMEZ MOTION TO MODIFY PLAN  
CJY-9 7-8-13 [103]

**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.

56. 12-91095-D-13 FELIPE/CARMEN HERCULES MOTION TO MODIFY PLAN  
CJY-2 7-3-13 [104]

**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.

57. 10-90398-D-13 LLOYD/ALISE CERRUTI MOTION TO VALUE COLLATERAL OF  
JDP-1 BANK OF AMERICA, N.A.  
7-9-13 [43]

**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.

58. 12-92899-D-13 FELIPE VELASCO AND ALMA CONTINUED MOTION TO CONFIRM  
TOG-4 CARRENO PLAN  
5-21-13 [85]

59. 09-90302-D-13 MICHAEL/MARY COOK CONTINUED MOTION TO VALUE  
JDP-1 COLLATERAL OF AMERICAN GENERAL  
6-6-13 [87]

**Final ruling:**

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

60. 11-92005-D-13 GILBERT/TAMARA AMBALONG MOTION TO APPROVE LOAN  
CJY-1 MODIFICATION  
7-29-13 [60]

61. 12-90605-D-13 MARCELLA WITT MOTION TO APPROVE LOAN  
CJY-5 MODIFICATION  
7-23-13 [42]

62. 10-90519-D-13 ENRIQUE/SALLY LOPEZ  
JDP-1

CONTINUED MOTION TO VALUE  
COLLATERAL OF PNC BANK, N.A.  
6-19-13 [47]

**Final ruling:**

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

63. 13-90026-D-13 MARIA ORTIZ  
REC-1

MOTION TO VACATE STAY-RELIEF  
ORDER  
7-30-13 [58]

64. 11-93138-D-13 JAMES/CATHY ALES  
MLP-2

MOTION TO SELL  
7-19-13 [56]

65. 13-90863-D-13 LEONCIO ALVARADO  
RCO-1

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY THE  
BANK OF NEW YORK MELLON  
6-25-13 [20]

66.	11-92665-D-13 RAC-4	MAKIN ROBINSON	MOTION TO REFINANCE 7-25-13 [48]
67.	13-91067-D-13 RDG-1	LAWRENCE GEIGER	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 7-22-13 [22]
68.	13-91067-D-13 PGM-1	LAWRENCE GEIGER	OBJECTION TO CONFIRMATION OF PLAN BY CHRISTILYNNE ONEILL 7-24-13 [25]
69.	13-91372-D-13 PLG-1	TODD/ROSIE JONES	MOTION TO EXTEND AUTOMATIC STAY 7-29-13 [8]

**Final ruling:**

This is a motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons: (1) there is no proof of service on file; (2) the moving papers do not include a docket control number, as required by LBR 9014-1(c); (3) there is, in fact, no motion on file; instead, the moving party filed only a document entitled "Notice of Plan Confirmation Hearing and Amendment to Schedules and Plan" (the "Notice"); thus, relief has not been requested by motion, as required by Fed. R. Bankr. P. 9014(a); (4) to the extent the Notice is construed as a motion and notice of motion, it does not comply with LBR 9014-1(d)(2), which requires that a motion and notice of hearing be separate documents; (5) the Notice incorrectly states that a written response or objection must be filed by July 25, 2013, which is a date that is not in compliance with LBR 9014-1(f)(1)(B); (6) the plan names the debtors in the case as Lena Mae Baker and Lamar Baker, whereas the only debtor named on the petition commencing this case was Lena Mae Baker; although an amended petition was filed four months after the case was commenced purporting to name Lamar Baker as joint debtor, the moving party has submitted no authority for the proposition that a joint debtor may be added to a bankruptcy case simply by the filing of a purported amended petition; and (7) the petition commencing this case was signed by Lena Mae Baker, with no reference to a conservator, whereas the debtor's attorney has since filed as an exhibit in this case a copy of an order of the Stanislaus County Superior Court which predates the date of the petition in this case by five months and which purports to appoint Kenneth Baker as conservator of the person and estate of Lena Baker; thus, the court has insufficient evidence from which to conclude that this case was properly commenced; although the amended petition referred to above was signed by Kenneth Baker, as conservator for Lena Baker, the moving party has submitted no authority for the proposition that a petition that was ineffective to commence a bankruptcy case, for lack of authority on the part of the alleged debtor, may be corrected retroactively simply by the filing of a purported amended petition.

For the reasons stated, the motion will be denied, and the court need not reach the trustee's remaining objections at this time. The motion will be denied by minute order. No appearance is necessary.