

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

October 1, 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.

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|----|--------------------------------|-----------------------|---|
| 1. | 12-34900 -D-13 | GURJIT/TAJINDER BASRA | MOTION TO AVOID LIEN OF CITIBANK (SOUTH DAKOTA), N.A. 9-3-13 [38] |
| | DN-3 | | |

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.

2. [13-29402](#)-D-13 RAMSEY/AMEL MOHAMED OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
8-30-13 [[30](#)]

3. [13-29402](#)-D-13 RAMSEY/AMEL MOHAMED OBJECTION TO DEBTORS' CLAIM OF
RDG-2 EXEMPTIONS
8-30-13 [[27](#)]

4. [13-29404](#)-D-13 OLIVIA EVANS OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
8-30-13 [[16](#)]

5. [13-29708](#)-D-13 BENNY/LUCY YERRO MOTION TO VALUE COLLATERAL OF
JDP-1 GMAC MORTGAGE
8-19-13 [[16](#)]

Final ruling:

This is the debtors' motion to value collateral of GMAC Mortgage ("GMAC"). The motion will be denied because the moving parties failed to serve GMAC in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving parties served GMAC (1) by first-class mail to the attention of Customer Service; and (2) by certified mail to the attention of an officer. The first method was insufficient because the rule requires that service be addressed to the attention of an officer, managing or general agent, or agent for service of process, not Customer Service.

The second method was insufficient because service was made by certified mail,

whereas service on a corporation, partnership, or other unincorporated association 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 this service defect, the motion will be denied by minute order. No appearance is necessary.

6. [13-29315](#)-D-13 CARL JUBB OBJECTION TO CONFIRMATION OF
RCO-1 PLAN BY WELLS FARGO BANK, N.A.
8-28-13 [[22](#)]

7. [12-20918](#)-D-13 SUKHBIR KAUR MOTION TO APPROVE LOAN
DN-2 MODIFICATION
9-5-13 [[27](#)]

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.

8. [12-27824](#)-D-13 CHRISTOPHER/MARIA JEHS MOTION TO MODIFY PLAN
TBK-1 8-16-13 [[36](#)]

9. [13-26925](#)-D-13 JOSE CHAVEZ AND ESTHER MOTION TO CONFIRM PLAN
DVD-4 FRANCO DE CHAVEZ 8-13-13 [[50](#)]

Final ruling:

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons. First, 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). Second, the plan provides for the claims secured by second and third deeds of trust against the debtors' residence at \$0, whereas the debtors' motions to value the collateral securing those claims have been denied, and no new motions have been filed. (The court notes that there is a proof of service on file purporting to evidence service of a stipulation resolving one of the motions to value previously filed, but there is no stipulation on file.) Thus, this motion will be denied pursuant to LBR 3015-1(j).

In addition, the debtors have failed to satisfy their burden of demonstrating that the plan has been proposed in good faith. As the trustee points out in his opposition, the debtors have been supporting their 27-year old son with no contribution from him to the household expenses. The trustee's objection to confirmation of the debtors' original plan was sustained in part on the ground that their son was working full time but was not contributing to the household. The debtors have amended their Schedule I to show their son is contributing \$250 per month; however, as the trustee notes, they have failed to provide any evidence regarding his income and expenses (except to say he makes \$10 per hour). The court agrees with the trustee that there is insufficient evidence to determine whether \$250 per month is a reasonable amount for room and board, when he would pay considerably more on his own.

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

10. [09-44126](#)-D-13 MICHAEL/ARLEANE CAVLAN MOTION TO VALUE COLLATERAL OF
JDP-1 JP MORGAN CHASE, N.A.
8-28-13 [[45](#)]

Final ruling:

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

11. [12-40729](#)-D-13 MICHAEL/MELISSA MURRAY MOTION TO MODIFY PLAN
JCK-6 8-22-13 [[79](#)]

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.

12. [13-29329](#)-D-13 PACO/CORINA GONZALES OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
8-30-13 [[18](#)]

13. [13-29733](#)-D-13 ALAN BERNER CONTINUED MOTION TO VALUE
CLH-1 COLLATERAL OF UNCLE CREDIT
UNION
8-6-13 [[9](#)]

Tentative ruling:

This is the debtor's motion to value the collateral securing Uncle Credit Union's second position deed of trust against the debtor's residence at \$0. Uncle Credit Union (the "Credit Union") has filed opposition. For the following reason, the motion will be denied.

The question is whether the value of the property is greater or less than the amount due on the senior deed of trust, \$201,367. The debtor has testified: "As of the date of filing the value of my home was \$173,000.00." The Credit Union has submitted a declaration of Lisa Aguilera, a real estate agent with seven years' experience as such, who has testified that based on her review of comparable listings and sales, it is her opinion the value of the property is at least \$239,000. A printout of the sales and listings she reviewed is attached to her declaration.

A homeowner may testify to his opinion of the value of his property. 2 Russell, Bankruptcy Evidence Manual § 701:2, pp. 784-85 (West 2012-2013 ed.). However, as against the testimony of an individual with professional experience in the real estate industry, the court gives greater weight to the opinion of the professional. Thus, in this case, the court accords greater weight to Ms. Aguilera's opinion than to the debtor's, and concludes that the value of the property exceeds \$201,367, and that the Credit Union's claim is partially secured.

The court will hear the matter.

14. [13-21234](#)-D-13 JOHN/CYNTHIA GIFFORD MOTION TO VALUE COLLATERAL OF
PGM-2 SAFE CREDIT UNION
8-30-13 [[64](#)]

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.

15. [11-36435](#)-D-13 DAVID ROSS AND SONJA MOTION TO MODIFY PLAN
TBK-7 LEWIS 8-16-13 [[128](#)]

**CASE DISMISSED AS TO SONJA
LEWIS ONLY (JOINT DEBTOR)**

16. [12-41639](#)-D-13 RAY HUCKINS MOTION TO CONFIRM PLAN
LRR-4 8-7-13 [[86](#)]

Final ruling:

This case was dismissed on August 13, 2013. As a result the motion will be denied by minute order as moot. No appearance is necessary.

17. [11-33940](#)-D-13 JULIO/TAMMI ADAME MOTION TO MODIFY PLAN
DN-5 8-20-13 [[81](#)]

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. [10-36357](#)-D-13 ALFONSO CAMPOS AND GLORIA MOTION TO MODIFY PLAN
MRT-2 MORAN 8-21-13 [[54](#)]

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. [11-28957](#)-D-13 SAMUEL/ERIN TORRES MOTION TO MODIFY PLAN
RAC-2 8-20-13 [[51](#)]

Final ruling:

The relief requested in the motion is supported by the record, the trustee has withdrawn his opposition, and no other 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. [13-28157](#)-D-13 GREGORY/TOBIAN HENRY MOTION TO VALUE COLLATERAL OF
LRR-2 CITIMORTGAGE, INC.
8-6-13 [[22](#)]

Final ruling:

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

21. [10-52359](#)-D-13 JORDAN/CHERYL BALATAYO MOTION TO MODIFY PLAN
PLG-2 8-6-13 [[42](#)]

22. [13-26962](#)-D-13 SALVADOR MOYA AND ROSALBA MOTION TO CONFIRM PLAN
SBS-2 HUERTA 8-12-13 [[54](#)]

Final ruling:

This is the debtors' motion to confirm a second amended plan. On September 10, 2013, the debtors filed a motion to confirm a third amended plan. (Although the plan filed with that motion is entitled a second amended plan, it is clearly different from the plan that was the subject of this motion.) As a result of the filing of the motion to confirm a third amended plan, the present motion is moot. The motion will be denied as moot by minute order. No appearance is necessary.

23. [13-27664](#)-D-13 MANUEL ALFONSO MOTION TO CONFIRM PLAN
JCK-1 8-15-13 [[20](#)]

24. [13-24265](#)-D-13 JOSEPH AUE MOTION TO MODIFY PLAN
JCK-2 8-15-13 [[26](#)]

25. [13-29365](#)-D-13 RODNEY LOFLIN AND LINDA OBJECTION TO CONFIRMATION OF
RDG-1 DANA-LOFLIN PLAN BY TRUSTEE RUSSELL GREER
8-30-13 [[14](#)]

Final ruling:

Objection withdrawn by moving party. Matter removed from calendar.

26. [13-29266](#)-D-13 GERARDO MANZO AND BEATRIZ OBJECTION TO CONFIRMATION OF
PPR-1 CEJA PLAN BY THE BANK OF NEW YORK
MELLON
8-12-13 [[15](#)]
27. [13-29266](#)-D-13 GERARDO MANZO AND BEATRIZ OBJECTION TO CONFIRMATION OF
RDG-1 CEJA PLAN BY RUSSELL D. GREER
8-30-13 [[18](#)]
28. [13-29367](#)-D-13 WILLIAM/JENI FLORES OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
8-30-13 [[21](#)]

Final ruling:

The objection will be overruled as moot. The debtors filed an amended plan on September 20, 2013, making this objection moot. As a result the court will overrule the objection without prejudice by minute order. No appearance is necessary.

29. [13-24869](#)-D-13 FRANK FLORIO MOTION TO CONFIRM PLAN
MKM-2 8-13-13 [[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.

30. [13-24969](#)-D-13 SUE KRAMER CONTINUED MOTION FOR PERMISSION
DN-2 TO ENTER INTO TRIAL PAYMENT
PLAN
8-20-13 [[31](#)]

Final ruling:

Motion withdrawn by moving party. Matter removed from calendar.

31. [10-21771](#)-D-13 GEORGE/DEBORAH NEWGENT MOTION TO MODIFY PLAN
DN-2 8-15-13 [[60](#)]

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. [13-29273](#)-D-13 ERNESTO/MARIA ORTEGA OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
8-30-13 [[24](#)]

33. [13-29273](#)-D-13 ERNESTO/MARIA ORTEGA OBJECTION TO CONFIRMATION OF
RMD-1 PLAN BY U.S BANK, N.A.
9-4-13 [[28](#)]

34. [13-27075](#)-D-13 VICTOR/RENEE PADILLA MOTION TO CONFIRM PLAN
DEF-4 8-14-13 [[52](#)]

35. [12-27979](#)-D-13 SHELLEY SMITH MOTION TO MODIFY PLAN
JAD-1 8-22-13 [[24](#)]

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. [13-30379](#)-D-13 DANIELLE MARTIN MOTION TO VALUE COLLATERAL OF
DN-1 WELLS FARGO SERVICING CENTER
9-3-13 [[16](#)]

37. [13-29580](#)-D-13 VINCENT/VIRGINIA ALCARIA MOTION TO VALUE COLLATERAL OF
TBK-1 CITIBANK, N.A.
9-3-13 [[16](#)]

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.

38. [09-35581](#)-D-13 OSWALDO/ANGELA CRUZ MOTION TO VALUE COLLATERAL OF
RK-3 JP MORGAN CHASE BANK, N.A.
8-28-13 [[68](#)]

Final ruling:

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.

39. [13-26982](#)-D-13 GERARDO ZUNIGA MOTION TO DISMISS ADVERSARY
[13-2228](#) SW-1 PROCEEDING
ZUNIGA V. WELLS FARGO BANK, 8-14-13 [[6](#)]
N.A. ET AL

Final ruling:

This adversary proceeding was dismissed by minute order on September 12, 2013. As such, the motion will be denied as moot by minute order. The court will issue a minute order. No appearance is necessary.

40. [13-22183](#)-D-13 DANNY/LUISA ACAIN MOTION TO CONFIRM PLAN
GMY-2 8-19-13 [[47](#)]

Final ruling:

This case was dismissed on August 22, 2013. As a result the motion will be denied by minute order as moot. No appearance is necessary.

41. [10-49484](#)-D-13 TACI CARDEN MOTION TO MODIFY PLAN
CJY-1 8-28-13 [[29](#)]

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.

42. [13-26085](#)-D-13 ANTONIO SAENZ AND MARIA MOTION TO CONFIRM PLAN
TOG-3 CAMPUZANO 8-19-13 [[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.

43. [12-36388](#)-D-13 AUDREY PLETAN MOTION TO AVOID LIEN OF HPROF,
PGM-2 LLC
8-21-13 [[37](#)]

Final ruling:

This is the debtor's motion to avoid a judicial lien held by HPROF LLC against her real property on Stone River Court, in Stockton, which is the debtor's residence. The motion will be denied for the following reason.

The titles of the motion and all supporting documents indicate that this is a motion to avoid a judicial lien pursuant to § 522(f)(1)(A) of the Bankruptcy Code. In support of the motion, the debtor testifies that she has claimed an exemption in the property; a copy of her Schedule C is filed as an exhibit. The debtor also states: "[M]y attorney advises me that, because this is my primary residence, I am entitled to the exemption amount of \$100,000.00 according to CCCP 704.730(a)(2)." Debtor's declaration, filed August 21, 2013, at 1:27-2:1. However, the copy of Schedule C filed with the motion and the debtor's actual Schedule C filed with her petition reveal that the debtor has not claimed any interest in this property as exempt. Instead, she has claimed an exemption in a different property entirely, one on Village Green Drive, in Stockton, pursuant to Cal. Code Civ. P. § 703.140(b)(5).

"There are four basic elements of an avoidable lien under § 522(f)(1)(A): First, there must be an exemption to which the debtor would have been entitled under subsection (b) of this section. 11 U.S.C. § 522(f). Second, the property must be listed on the debtor's schedules and claimed as exempt. Third, the lien must impair that exemption. Fourth, the lien must be . . . a judicial lien. 11 U.S.C. § 522(f)(1)." In re Goswami, 304 B.R. 386, 390-91 (9th Cir. BAP 2003), citing In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992) (emphasis added).

Thus, because the debtor has not claimed the Stone River Court property as exempt, and because, given the other exemptions she has claimed, she could not claim it as exempt, she cannot avoid the lien. (Nor could she avoid the lien as against the Village Green Drive property, because she owns that property free and clear of unavoidable liens, and she has claimed an exemption in that property in an amount significantly less than its value, with the result that there is more than enough equity to support the judicial lien.)

The court notes that the debtor's motion reads like a motion to value collateral, and the memorandum of points and authorities cites § 506(a), not § 522(f)(1)(A) (except in the title). A motion to avoid a judicial lien and a motion to value collateral are two very different things, and because the moving party has chosen to characterize this as a motion to avoid a judicial lien, and has presented the type of evidence that would be presented in support of such a motion (although not supported by the record), the court will deem this a motion to avoid a judicial lien. For the reasons stated, the motion will be denied.

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

44. [11-31590](#)-D-13 LAVONNE MARCUS OBJECTION TO CLAIM OF PREMIER
DN-1 COMMUNITY CREDIT UNION, CLAIM
NUMBER 10
8-13-13 [[28](#)]

Final ruling:

This is the debtor's objection to the claim of Premier Community Credit Union, Claim No. 10 on the court's claims register. On August 22, 2013, after this objection was filed, the Credit Union withdrew the claim; as a result, the objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

45. [13-20199](#)-D-13 MICHAEL/MARY ROMAN MOTION TO CONFIRM PLAN
PGM-3 8-19-13 [[89](#)]

Final ruling:

This is the debtors' motion to confirm a modified chapter 13 plan. The court notes that on September 10, 2013, the debtors filed a notice of withdrawal of the motion. However, after an opposing party has filed opposition, as the trustee had done here, the moving party may not withdraw a motion without a court order. Fed. R. Civ. P. 41(a)(1)(A) and (2), incorporated in this contested matter by Fed. R. Bankr. P. 9014(c) and 7041. The court finds that withdrawal of the motion is not appropriate, and will deny the motion instead. The motion will be denied for the following reasons: (1) the moving parties failed to serve Eli J. Roman, listed on their Schedule H, as required by Fed. R. Bankr. 2002(b); (2) the moving parties failed to serve the creditor holding Claim No. 4 at the address on its notice of transfer of claim, as required by Fed. R. Bankr. P. 2002(g)(1); (3) the plan fails to provide for the secured claim of Toyota Motor Credit on the terms set forth in the stipulated order regarding that claim, filed April 9, 2013; and (4) the plan fails to provide for the secured claim of American Honda Finance on the terms set forth in the court's order regarding that claim, filed February 28, 2013.

For the reasons stated, 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.

46. [10-53230](#)-D-13 DAVID/LORRAINE GOMES
DN-3

CONTINUED OBJECTION TO CLAIM OF
OPERATING ENGINEERS LOCAL #3
F.C.U., CLAIM NUMBER 3
8-2-13 [[33](#)]

Final ruling:

This is the debtors' objection to the claim of Operating Engineers Local #3 F.C.U., Claim No. 3 on the court's claims register. The hearing was continued to allow the moving parties to supplement the record, no later than September 24, 2013. As of this date, the debtors have not done so. Thus, the court adopts its tentative ruling, included in the civil minutes for September 17, 2013, DN 49, and concludes that the moving parties have failed to submit evidence establishing the factual allegations of the motion and demonstrating that they are entitled to the relief requested, as required by LBR 9014-1(d)(6). For that reason, the motion will be denied.

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

47. [13-29736](#)-D-13 ERIN POTTER
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
9-6-13 [[19](#)]

Final ruling:

This is the trustee's objection to confirmation of the debtor's proposed chapter 13 plan. As the trustee points out, the debtor filed the petition commencing this case in propria persona. Attorney James Mootz has since signed and filed a statement pursuant to Fed. R. Bankr. P. 2016(b) and an amended statement, in which he purports to certify that he is the debtor's attorney. However, he has never substituted into the case in the manner provided by LBR 2017-1(h), and has never made an appearance as attorney of record for the debtor in any of the exclusive ways provided by LBR 2017-1(b)(2). Thus, he may not participate in the case. LBR 2017-1(b)(1).

The court will hear the matter, but Mr. Mootz may not appear for the debtor without making an appearance as her attorney of record in one of the ways authorized by LBR 2017-1(b)(2). (Mr. Mootz should note that if he chooses to appear of record by appearing at this hearing and formally stating his appearance on the record, he must then sign and file a confirmation of appearance within seven days. LBR 2017-1(b)(2)(C).) The court will sustain the objection by minute order. No appearance is necessary.

48. [11-45742](#)-D-13 GUSTAVO/ESTELLA CORTEZ
JCK-1

MOTION TO INCUR DEBT
9-13-13 [[34](#)]

49. [08-29547](#)-D-13 PATRICK SAMSON CONTINUED OBJECTION TO CLAIM OF
CLH-2 CENTRAL MORTGAGE COMPANY, CLAIM
NUMBER 2
3-5-13 [[39](#)]
50. [13-29654](#)-D-13 PHILIP FLORES OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
9-6-13 [[15](#)]
51. [13-29555](#)-D-13 CHARLES DEAGUERO OBJECTION TO CONFIRMATION OF
RDG-2 PLAN BY RUSSELL D. GREER
9-6-13 [[26](#)]
- Final ruling:**
- This case was dismissed on September 19, 2013. As a result the objection will be overruled by minute order as moot. No appearance is necessary.**
52. [13-26259](#)-D-13 JAGROOP SINGH OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
9-6-13 [[48](#)]

53. [13-29574](#)-D-13 MARIA CAZARES OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
9-6-13 [[24](#)]

Final ruling:

Objection withdrawn by moving party. Matter removed from calendar.

54. [13-29578](#)-D-13 WILLAIM BUDREWICZ OBJECTION TO CONFIRMATION OF
RDG-2 PLAN BY RUSSELL D. GREER
9-6-13 [[38](#)]

Final ruling:

This is the trustee's objection to confirmation of the debtor's proposed chapter 13 plan. On September 10, 2013, the debtor filed an amended plan. As a result of the filing of the amended plan, the trustee's objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

Counsel for the debtor should note that the court will take no action on the amended plan until the debtor has filed, served, and set for hearing a motion to confirm it, as required by LBR 3015-1(d) (1).

55. [13-29580](#)-D-13 VINCENT/VIRGINIA ALCARIA OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
9-6-13 [[21](#)]

56. [13-29494](#)-D-13 LAURA RICHARDSON OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
9-6-13 [[22](#)]

57. [13-24098](#)-D-13 MARTHA SOLIS
MBB-1
BANK OF AMERICA, N.A. VS.

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
5-29-13 [[22](#)]