

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Sacramento, California

February 3, 2015 at 10:00 a.m.

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INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

Unless otherwise stated, the court will prepare a civil minute order on each matter listed. If the moving party wants a more specific order, it should submit a proposed amended order to the court. In the event a party wishes to submit such an Order it needs to be titled 'Amended Civil Minute Order.'

If the moving party has received a response or is aware of any reason, such as a settlement, that a response may not have been filed, the moving party must contact Nancy Williams, the Courtroom Deputy, at (916) 930-4580 at least one hour prior to the scheduled hearing.

2. The court will not continue any short cause evidentiary hearings scheduled below.

3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.

4. If no disposition is set forth below, the matter will be heard as scheduled.

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1.	10-46601-D-13	THOMAS/CRYSTINE PETERSON	MOTION TO MODIFY PLAN
	DN-2		12-11-14 [47]

**Final ruling:**

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is attached as Exhibit 2 to General Order 05-03. The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

2.	14-30501-D-13	DENNIS/GLORIA THRELKELD	MOTION TO CONFIRM PLAN
	JCK-1		12-19-14 [14]

3. 14-30501-D-13 DENNIS/GLORIA THRELKELD  
JCK-2

MOTION TO VALUE COLLATERAL OF  
ARKANSAS DEPARTMENT OF FINANCE  
AND ADMINISTRATION  
12-31-14 [19]

**Final ruling:**

This is the debtors' motion to value collateral of the Arkansas Department of Finance and Administration (the "Department"). The motion will be denied for the following reasons. First, the proof of service evidences service of an amended notice of motion only, and not of the motion, supporting declaration, or exhibits. (Further, there is no "amended notice" on file, so it cannot be determined what document was served.) Second, the moving parties served the Department to the attention of a "Manager, General Manager or Officer," whereas service of process on a state or municipal corporation or other governmental organization must be effectuated by mailing copies to the "person or office upon whom process is prescribed to be served by the law of the state in which service is made when an action is brought against such a defendant in the courts of general jurisdiction of that state . . . ." (Fed. R. Bankr. P. 7004(a)(6)), which in Arkansas is "the chief executive officer thereof, or other person designated by appointment or by statute to receive such service . . . ." Arkansas Rules of Civil Procedure, Rule 4(d)(7); Collins v. Hall, 2014 Ark. App. 731, \*6 (2014).

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

4. 12-28604-D-13 WILLIAM/GINA CRONIN  
DCJ-6

CONTINUED MOTION TO MODIFY PLAN  
10-21-14 [111]

5. 12-31709-D-13 KEVIN/ELIZABETH HOFFMAN  
JCK-3

CONTINUED AMENDED MOTION TO  
MODIFY PLAN  
12-11-14 [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.

6. 12-31709-D-13 KEVIN/ELIZABETH HOFFMAN AMENDED MOTION TO INCUR DEBT  
JCK-4 12-11-14 [57]

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

7. 14-26614-D-13 VALERIA LABORDE CONTINUED MOTION TO RECONVERT  
RDG-3 CASE TO CHAPTER 7  
11-4-14 [50]

8. 14-31015-D-13 ROBERT/DANIELLE SIMPSON OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D. GREER  
1-5-15 [14]

**Tentative ruling:**

This is the trustee's objection to confirmation of the debtors' proposed chapter 13 plan. The debtors have filed a response. For the following reasons, the court concludes that the debtors have failed to meet their burden of demonstrating that the plan has been proposed in good faith. Accordingly, the court intends to sustain the objection.

Under their proposed plan, the debtors would pay \$900 per month for 60 months, with a 0% dividend to their general unsecured creditors. The trustee objected to confirmation on two grounds: (1) that the debtors had failed to list on their Schedule I unemployment income debtor Danielle Simpson is receiving; and (2) that they had failed to list on their Schedule J certain medical expenses they referred to at the meeting of creditors. In response, the debtors have amended their Schedules I and J. They have added to their Schedule I unemployment income of \$1,720 per month. They have added to their Schedule J expenses for dental work, \$1,520 per month, and expenses for a GED, \$200 per month, thus offsetting to the penny the new unemployment income.

The debtors state in their response that they did not originally schedule the unemployment benefits because the benefits did not commence until November 12, 2014, which was after their case was filed, and that they did not originally schedule the dental expense because the treatment plan was not drawn up until December 23, 2014. They add that debtor Danielle Simpson needs to earn her GED as it will be useful to her in her search for employment.

The court has a significant concern about the debtors' truthfulness in

preparing and signing - under oath - their original schedules. On Schedule I, they were required to state whether they expected an increase or decrease in their income within the next year. They replied, "Wife's job terminated Aug. 2014. Severance pay ends Dec. 2014. Severance pay is \$4,558 mo. gross." They made no mention of the significant amount of unemployment income they almost certainly knew she was going to receive. (They now state that the unemployment benefits started on November 12, 2014, which was just five days after the case was filed.) Further, on their Schedule J, the debtors were required to state whether they expected an increase or decrease in their expenses within the next year; they answered "No." It seems unlikely the debtors were entirely unaware that debtor Danielle Simpson was going to need extensive dental work (a total of \$10,120 according to the treatment plan they have now filed), which they were going to propose to pay back at the rate of \$1,520 per month.

In addition, at that rate, the dental work will be paid for within seven months, and the debtors apparently intend to simply retain the \$1,520 per month in excess income for themselves for the remaining 53 months of the plan, while general unsecured creditors receive nothing. The debtors have failed to indicate how much it will cost for debtor Danielle Simpson to earn her GED; thus, they have failed to indicate for how many months they will be spending \$200 per month toward that end.

Given these circumstances, the court finds that the debtors' original Schedules I and J were untruthful, misleading, and not in compliance with their duty of careful, complete, and accurate reporting in their schedules. See Hickman v. Hana (In re Hickman), 384 B.R. 832, 841 (9th Cir. BAP 2008), citing Diamond Z Trailer, Inc. v. JZ L.L.C. (In re JZ L.L.C.), 371 B.R. 412, 417 (9th Cir. BAP 2007). Further, the debtors' amended schedules and their proposal to retain for themselves the excess income they failed to disclose originally long after the expenses they now claim are necessary have been paid compel the conclusion that the debtors have failed to demonstrate that their plan has been proposed in good faith. Accordingly, the objection will be sustained.

The court will hear the matter.

9. 14-31120-D-13 DANA BUCKINGHAM  
RDG-1

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
1-5-15 [15]

10. 14-28026-D-13 MIGUEL/MARTHA GOMEZ MOTION TO CONFIRM PLAN  
RLG-1 12-19-14 [70]

**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 the debtors have used for a prior motion in this case, contrary to LBR 9014-1(c)(3); and (2) the moving parties served only the chapter 13 trustee, the United States Trustee, and Caterpillar Financial Services, and thus, failed to serve all creditors, as required by Fed. R. Bankr. P. 2002(b).

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

11. 14-28026-D-13 MIGUEL/MARTHA GOMEZ AMENDED MOTION TO CONFIRM PLAN  
RLG-1 12-12-14 [63]

**Final ruling:**

The motion will be denied as moot. The debtors filed an amended plan on December 19, 2014, making this motion moot. As a result the court will deny the motion without prejudice by minute order. No appearance is necessary.

12. 14-30426-D-13 RODEL/EMMALYN PACRING CONTINUED OBJECTION TO  
RDG-1 CONFIRMATION OF PLAN BY RUSSELL  
D. GREER  
12-5-14 [17]

13. 09-43631-D-13 ANTHONY/TERESA SOUZA MOTION EXCUSING COMPLIANCE WITH  
CLH-3 11 U.S.C. 1328(G)(1)  
12-10-14 [59]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion to excuse compliance with 11 U.S.C. 1328(g)(1) is supported by the record. As such the court will grant the motion and excuse compliance with 11 U.S.C. 1328(g)(1). Moving party is to submit an appropriate order. No appearance is necessary.

14. 14-25132-D-13 KAREN CLEARY CONTINUED MOTION TO CONFIRM  
RLG-5 PLAN  
11-25-14 [75]

15. 14-25132-D-13 KAREN CLEARY MOTION TO APPROVE LOAN  
RLG-6 MODIFICATION  
12-12-14 [84]

**Final ruling:**

This is the debtor's motion to incur debt and to authorize a loan modification. The motion will be denied because the moving party served only Wells Fargo Bank, and failed to serve the chapter 13 trustee, the United States Trustee, or any of the other creditors in the case.

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

16. 14-31633-D-13 CRAIG VINCENT MOTION TO VALUE COLLATERAL OF  
JCK-2 MCT GROUP,  
INCORPORATED/OPERATING  
ENGINEERS CREDIT UNION  
12-18-14 [21]

**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. 14-30536-D-13 ESTHER JOHNSON OBJECTION TO CONFIRMATION OF  
APN-1 PLAN BY SANTANDER CONSUMER USA,  
INC.  
12-15-14 [33]

**Final ruling:**

This case was dismissed on December 18, 2014. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

18. 14-23842-D-13 ANGELA WARREN-BASS  
JCK-5

CONTINUED AMENDED MOTION TO  
CONFIRM PLAN  
11-22-14 [92]

19. 14-28442-D-13 PAUL MILLER  
CAH-3

MOTION TO CONFIRM PLAN  
12-12-14 [44]

20. 14-27445-D-13 PETER/LORI KOULOURIS  
PGM-1

MOTION TO CONFIRM PLAN  
12-18-14 [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 failed to serve the State Board of Equalization at its applicable address on the Roster of Governmental Agencies (the moving parties used the address expressly designated on the Roster for the service of § 505 requests only and not the address designated for all other notices); (2) the moving parties failed to serve Dana Gonzalez, listed on their amended Schedule G, at all, as required by Fed. R. Bankr. P. 2002(b); (3) the moving parties failed to serve the party requesting special notice at DN 10 at its designated address, as required by Fed. R. Bankr. P. 2002(g); and (4) the plan does not comply with § 1322(a)(2) or § 1325(a)(5) of the Bankruptcy Code. The plan provides for the Franchise Tax Board's secured claim but not for its priority unsecured claim, \$25,631.96 according to its proof of claim. Further, the plan provides for the IRS's priority unsecured claim but not for its secured claim, \$26,509 according to its proof of claim.

For the reasons stated, the motion will be denied, and the court need not reach the issues raised by the trustee or the other issues raised by the IRS at this time. The motion will be denied by minute order. No appearance is necessary.

21. 14-28148-D-13 CESAR/BETTY DEL ROSARIO MOTION TO AVOID LIEN OF CAPITAL  
JCK-7 ONE BANK (USA), N.A.  
12-19-14 [68]

**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.

22. 14-28148-D-13 CESAR/BETTY DEL ROSARIO MOTION TO AVOID LIEN OF  
JCK-8 HOUSEHOLD FINANCE CORP  
(HFC-USA)/BENEFICIAL CALIFORNIA  
12-19-14 [73]

**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.

23. 14-28148-D-13 CESAR/BETTY DEL ROSARIO MOTION TO AVOID LIEN OF CACH,  
JCK-9 LLC  
12-19-14 [78]

**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.



**Final ruling:**

This is the debtors' motion to confirm a modified chapter 13 plan. The trustee has filed opposition, and the debtors have filed a reply. For the following reasons, the motion will be denied.

Under the debtors' existing plan, which was confirmed in November of 2012, they would make plan payments of \$3,590 per month for 60 months, resulting in a 100% dividend to general unsecured creditors. A year later, in November of 2013, the debtors proposed to modify their plan to reduce their plan payment to \$3,000 per month and the dividend to 58%. The debtors proposed that modification on the basis that debtor Stephanie Villalpando had been, at the beginning of this case, working temporarily as a delivery supervisor for the U.S. Postal Service, whereas she had since returned to her position as a city letter carrier, with a resulting decrease in income. The trustee objected to the modification on the grounds that (1) the debtors' amended Schedule I showed they were continuing to contribute \$1,032 per month to their voluntary TSPs, which the trustee contended was not reasonable or necessary in any amount, but especially in light of the proposed decrease in the dividend; and (2) the debtors were continuing to make a \$216 per month payment toward a TSP loan that was scheduled to be paid off in December of 2014, whereas the debtors had not proposed to increase their plan payment once that loan was paid off.

The court concluded, with the trustee, that the debtors had failed to meet their burden of demonstrating that the plan had been proposed in good faith. The court noted that the debtors were also continuing to repay two other TSP loans at a total of \$721 per month. In other words, whereas they were proposing a significant reduction in the dividend to their creditors, they proposed to continue contributing to two TSPs and repaying three TSP loans at the same rates as before, and had not proposed to increase their plan payment even after one of the loans was paid off. Thus, the court denied the motion to modify the plan, and for a year, the debtors did not file a new motion.

On December 4, 2014, the trustee filed a notice of default and intent to dismiss case, indicating that the debtors had fallen \$7,400 behind in their plan payments. The list of payments attached to the notice indicates they began to fall behind in November of 2013 and seriously behind in the fall of 2014. The debtors filed this motion on December 11, 2014, at which time they also filed amended Schedules I and J. The amended Schedule I continued to reflect the \$1,500 drop in income for Stephanie Villalpando that was reflected in their November 2013 amended schedules. However, this time, the amended Schedule J showed voluntary contributions to the debtors' TSPs as reduced from \$1,032 to \$63 per month. It continued to show the \$216 TSP loan repayment on the loan that was to be paid off in December of 2014, along with the \$721 in longer-term TSP loan repayments. The debtors stated in their supporting declaration that their income had remained the same but that they had fallen behind due to certain high living expenses, including a sizeable plumbing repair bill.

For completely unexplained reasons, on December 31, 2014, 20 days after they had filed this motion and the accompanying amended Schedules I and J, the debtors filed an amended motion and a further amended plan, along with a further amended set of Schedules I and J. They also filed an amended declaration that was almost identical to the one they had filed with the motion 20 days earlier. In the new declaration, the debtors again state that their income has not changed, and that they had experienced certain high living expenses, including the plumbing bill. The

only difference between the two declarations was that the debtors now propose a plan payment of \$3,463 whereas on December 11, they had proposed a plan payment of \$3,581.<sup>1</sup> Most significant, on the newly-amended Schedule I, the debtors show Stephanie Vallalpando's income as \$1,545 higher than listed on the amended Schedule I filed just 20 days earlier, on December 11. And, as if to offset that increase, they added back in the full \$1,032 in voluntary TSP contributions the trustee had objected to a year earlier. They also kept the \$216 TSP loan repayment on the loan that was supposed to be paid off in December of 2014.

The trustee filed the same opposition to this new motion he had filed a year ago; that is, he has objected on the grounds that (1) the debtors are contributing \$1,032 to a voluntary TSP, an expense the trustee contends is not reasonable or necessary in any amount; and (2) they are still paying \$216 toward a TSP loan that was scheduled to be paid off in December of 2014.

The trustee's opposition incorrectly states that the \$1,032 in voluntary contributions is even more objectionable due to the proposed decrease in the dividend to unsecured creditors. The proposed plan will keep the dividend at 100%. The court agrees with the trustee's basic premise, however, which is that the \$1,032 in voluntary TSP contributions are not reasonable or necessary in any amount. Thus, the court will, as it did a year ago, deny this motion on the basis, as urged by the trustee, of lack of good faith. As further support for this conclusion, the court is troubled by the obvious unreliability of the debtors' various sets of Schedules I and J, such as the significant discrepancies between Stephanie Villalpando's income as reported on December 11, 2014, \$3,900, and as reported just 20 days later, \$5,445, both filed at a time when the debtors declared under oath that their income had not changed, and their decision to add back the \$1,032 in voluntary retirement contributions when they realized they had, apparently, underreported her income. The court is also concerned that they continue to report they are paying back, at \$216 per month, a TSP loan that was supposed to be paid off a month ago.

In response to the trustee's opposition, the debtors have now offered to increase their plan payment by \$216, which is the amount of the TSP loan they paid off in December 2014. This is not a meaningful offer, as this \$216 deduction from income should not have been kept in their budget in the first place after the loan was paid off. The debtors' reply does not address the trustee's other objection - the fact that they have added back in to their budget \$1,032 per month in voluntary retirement contributions. The reason for the debtors' motion to modify their plan is that they fell behind in their plan payments due to unexpected expenses. They would apparently like to put their creditors at risk of such unexpected expenses in the future while the debtors resume making their \$1,032 voluntary retirement contributions for their own benefit. The debtors' reply does not change the court's conclusion that the plan has not been proposed in good faith.

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

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<sup>1</sup> The motion and amended motion both characterize the newly-proposed plan payment as an increase over the one in the existing confirmed plan, which it is not. The confirmed plan calls for a plan payment of \$3,500 per month, which the debtors increased to \$3,646 in May of 2013 in response to an increase in their mortgage payment. For some reason, the debtors incorrectly report in their motion and amended motion that their plan payment has been \$3,000; it has actually remained at \$3,500.

25. 14-25359-D-13 LILLIAN GLEASON  
RLG-4

MOTION TO CONFIRM PLAN  
12-15-14 [72]

**Final ruling:**

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons: (1) 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) (in fact, the moving party failed to serve these creditors at all); and (2) the moving party failed to serve HSBC Mortgage, listed on the debtor's Schedule D as holding a second mortgage on her residence, as required by Fed. R. Bankr. P. 2002(b).

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

26. 14-25359-D-13 LILLIAN GLEASON  
RLG-5

MOTION TO INCUR DEBT AND/OR  
MOTION TO APPROVE LOAN  
MODIFICATION  
1-6-15 [83]

**Final ruling:**

This is the debtor's motion to incur debt and to authorize a loan modification. The motion will be denied for the following reasons. First, the moving party served only U.S. Bank and Ocwen Loan Servicing, and failed to serve the chapter 13 trustee, the United States Trustee, or any of the other creditors in the case. Second, the moving papers include a docket control number the debtors have used for a prior motion in this case, contrary to LBR 9014-1(c)(3). Third, the moving papers contain insufficient information to enable interested parties to determine whether to oppose the motion or to enable the court to determine whether to grant it. The moving papers state only that the monthly payment will not exceed the greater of the debtor's current monthly payment or \$2,000, and that the modification will assist with ensuring compliance with the plan payments. Finally, the moving papers indicate only that the debtor has applied for a loan modification, not that a loan modification has been approved. Thus, it appears the motion is premature.

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

27. 14-31159-D-13 ELISA SOTO  
APN-1

OBJECTION TO CONFIRMATION OF  
PLAN BY BMW BANK OF NORTH  
AMERICA  
1-5-15 [17]

**Tentative ruling:**

This is the debtor's motion to value the collateral of BMW Bank of North America (the "Bank"), a 2006 Land Rover Range Rover (the "vehicle"). The Bank has filed opposition. For the following reasons, the motion will be denied.

The debtor seeks to value the vehicle at \$9,610 based on her testimony and that of her daughter, who drives the vehicle. The debtor testifies the vehicle has approximately 107,000 miles and needs repairs to the radiator, brakes, transmission, and bumper. Based on research on Edmunds.com and kbb.com, along with an "Auto Genius Report," the latter "courtesy of the Edmunds.com database," the debtor concludes that the private party value of the vehicle on the date of filing was \$9,610.<sup>1</sup> The Bank, in contrast, has submitted a Kelley Blue Book report showing a suggested retail value of \$18,199.

The standard the court is to use to value personal property acquired for personal, family, or household purposes is the property's "replacement value" as of the petition date, without deduction for costs of sale or marketing. § 506(a)(2). "Replacement value," in turn, is defined as "the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined." Id. Here, the debtor testifies instead to her opinion of the vehicle's private party value, which is not the standard the court is to use.<sup>2</sup> The debtor has submitted no evidence of the vehicle's replacement value, as that term is used in the Code.

For this reason, the court concludes that the debtor has not met her burden of demonstrating the replacement value of the vehicle, and the motion will be denied. The court is not prepared to value the vehicle at the value urged by the Bank, as that value does not appear to take into account the condition of the debtor's vehicle, as required by § 506(a)(2). The court will hear the matter.

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1 The debtor's daughter testifies in greater detail about the various repairs needed and the repair estimates she has obtained.

2 The Kelley Blue Book, for example, defines its private party value as "the starting point for negotiation of a used-car sale between a private buyer and seller." [http://www.kbb.com/dodge/charger/2010-dodge-charger/sedan-4d/?condition=excellent&vehicleid=261488&intent=trade-in-sell&mileage=115000&pricetype=private-party&persistedcondition=excellent&printable=true&previouspagename=yymmtrimtisellovr\\_selltrade](http://www.kbb.com/dodge/charger/2010-dodge-charger/sedan-4d/?condition=excellent&vehicleid=261488&intent=trade-in-sell&mileage=115000&pricetype=private-party&persistedcondition=excellent&printable=true&previouspagename=yymmtrimtisellovr_selltrade) (last visited Jan. 22, 2015).

29.	14-28464-D-13 ADR-4	CRISANTO/ANNA DE CASTRO	MOTION TO CONFIRM PLAN 12-15-14 [56]
30.	14-31367-D-13 RDG-2	RAMONA/MIGUEL PEREZ	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 1-5-15 [19]
31.	14-31268-D-13 RDG-1	JAMES LEA	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 1-5-15 [19]
32.	13-26069-D-13 PGM-3	GINA TOSCANO	MOTION TO MODIFY PLAN 12-23-14 [68]

33. 14-26371-D-13 VICTOR/VICKI CHAO  
HN-3

MOTION TO CONFIRM PLAN  
12-12-14 [85]

**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 "attached service list" referred to in the proof of service is not attached. There is a list of names and addresses filed separately, which may be the service list referred to in the proof of service; however, if so, it should have been attached to the proof of service. Second, assuming the service list filed separately is the list of parties served and the addresses at which they were served, the moving parties failed to serve any of the creditors that have filed proofs of claim in this case at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g). Third, the moving parties failed to serve the creditor that has requested special notice in this case at its designated address, as required by Fed. R. Bankr. P. 2002(g). Fourth, the notice of hearing does not contain the cautionary language required by LBR 9014-1(d)(3). In addition, the notice of hearing refers to the objecting party requesting a hearing, which is not applicable procedure under the court's local rules. Fifth, the proof of service does not bear the docket control number, as required by LBR 9014-1(e)(3).

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

34. 14-31371-D-13 MARTIN SALAZAR  
RDG-1

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
1-5-15 [17]

35. 14-30872-D-13 ARMANDO COVARRUBIAS  
HRH-1  
GENERAL ELECTRIC CAPITAL  
CORPORATION VS.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
1-8-15 [26]

36. 14-30972-D-13 PAMELA BECKER  
RDG-2

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
1-5-15 [24]

37. 14-29877-D-13 JOHN/KELLY COSTAMAGNA  
CLH-2

CONTINUED MOTION TO SELL  
12-22-14 [40]

**Tentative ruling:**

This is the debtors' motion to sell certain real property. The hearing was continued based on the court's finding that the notice of hearing, which was the only document served on creditors, failed to set forth sufficient facts to enable parties-in-interest to determine whether to oppose the motion, as required by LBR 9014-1(d)(4). In its tentative ruling for the initial hearing, the court also listed certain additional information that should be disclosed by the moving parties. The hearing was continued for the debtors to file and serve a notice of continued hearing.

As of this date, the debtors have filed nothing further. As a result, for the reasons set forth in the court's original tentative ruling, which is found in the civil minutes for January 6, 2015 and incorporated herein by this reference, the motion will be denied.

The court will hear the matter.

38. 14-31577-D-13 CAROLYN WILSON  
RDG-1

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
1-9-15 [19]

39. 14-28682-D-13 ARMANDO/LINDA MARTINEZ  
MSM-3

MOTION TO CONFIRM PLAN  
12-12-14 [45]

40. 14-30982-D-13 ALBA CRUZ  
RDG-1

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
1-5-15 [18]

41. 12-26983-D-13 FRANK DAY  
LRR-8

MOTION TO MODIFY PLAN  
12-5-14 [97]

42. 14-27983-D-13 JOSE CADIS  
TOG-2

MOTION TO CONFIRM PLAN  
12-11-14 [35]

**Final ruling:**

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied because the moving party failed to serve West America Bank, added to his Schedule D by amendment filed December 11, 2014, and added to the debtor's plan in this amended version. As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.

43. 11-46785-D-13 DEWAYNE/MILDRED WEDDLES  
JCK-8

CONTINUED AMENDED MOTION TO  
MODIFY PLAN  
12-11-14 [132]

**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.



44. 14-28986-D-13 MARGARITA GUTIERREZ OBJECTION TO CONFIRMATION OF  
ASW-1 PLAN BY DEUTSCHE BANK NATIONAL  
TRUST COMPANY  
12-26-14 [62]

45. 14-28986-D-13 MARGARITA GUTIERREZ OBJECTION TO DEBTOR'S CLAIM OF  
RDG-2 EXEMPTIONS  
12-19-14 [59]

**Final ruling:**

This is the trustee's objection to the debtor's claim of exemptions. On January 23, 2015, the debtor filed an amended claim of exemptions. As a result of the filing of the amended claim of exemptions, this objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

46. 14-31086-D-13 CORINTHIAN JONES OBJECTION TO CONFIRMATION OF  
RDG-2 PLAN BY RUSSELL D. GREER  
1-5-15 [19]

47. 14-30095-D-13 SHEILA TERRY MOTION TO CONFIRM PLAN  
BAS-1 1-6-15 [39]

**Final ruling:**

This is the debtor's motion to confirm an amended chapter 13 plan. On January 12, 2015, the debtor filed and serve an amended notice of motion by which she noticed the motion for March 31, 2015 at 10:00 a.m. The motion will be continued by minute order to that date and time. No appearance is necessary on February 3, 2015.

48. 14-30095-D-13 SHEILA TERRY  
BAS-2

MOTION TO VALUE COLLATERAL OF  
CHECK INTO CASH OF CALIFORNIA,  
INC.  
1-5-15 [32]

**Final ruling:**

This is the debtor's motion to value collateral of Check Into Cash of California, Inc. The motion will be denied for the following reasons. First, the notice of hearing fails to comply with the court's local rule. The notice states first that notice is provided pursuant to LBR 9014-1(f)(2), and that "no written opposition is required." However, it later states: "In accordance with Local Bankruptcy Rule 9011-(a)-(e), (f)-(2), and (g)-(1), you must also serve an objection and all evidence supporting such objection must be served on [the trustee, the debtor, and the debtor's attorney] at [their listed addresses]." This court does not have a local rule numbered 9011, and the requirement to serve an objection and evidence conflicts with the earlier statement that no written opposition is required.

Second, the motion is not supported by evidence sufficient to demonstrate that the moving party is entitled to the relief requested, as required by LBR 9014-1(d)(6). The motion is supported by the debtor's declaration in which she testifies that at the time of filing, the vehicle had a "fair market value" of \$10,980. She adds that this value was obtained from Kelley Blue Book. Attached to the debtor's declaration is a Kelley Blue Book printout showing \$10,980 as the private party value of a vehicle having the same description as the debtor's, in good condition. (The motion states that the vehicle is in good condition.) The private party value of a vehicle is not the standard the court is to use to value personal property acquired for personal, family, or household purposes. See § 506(a)(2) of the Bankruptcy Code.

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

49. 14-31402-D-13 JAIME/BENILDA VALDEZ  
RDG-1

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
1-9-15 [23]

**Tentative ruling:**

This is the debtors' motion to avoid a judicial lien held by Premier Community Credit Union (the "Credit Union") in the original principal amount of \$10,621. The Credit Union has filed opposition. For the following reasons, the court intends to grant the motion.

The outcome of the motion as of the date it was filed hinged on the value of the property encumbered by the Credit Union's lien. The debtors claim the value is \$205,997. There is a deed of trust against the property on which the debtors owe \$209,825. The debtors claimed an exemption in the property in the amount of \$1.00. Thus, the sum of (1) the amount of the judicial lien, (2) the amount owed on the deed of trust, and (3) the amount of the debtors' exemption was \$220,447, which exceeded the value of the property in the debtors' opinion, 205,997, by \$14,450. Thus, pursuant to § 522(f)(2)(A) of the Bankruptcy Code, and assuming without deciding that the debtors' valuation of the property is correct, the entire amount of the judicial lien impaired the debtors' exemption.

The hearing was continued to permit the Credit Union to submit evidence, which it has now done. The Credit Union submitted an appraisal with the appraiser's declaration, in which she stated that in her opinion, the value of the property on the petition date was \$224,000. At that value, the sum of the judicial lien, the deed of trust lien, and the exemption claim, \$220,447, did not exceed the value of the property, \$224,000. Thus, assuming without deciding that the value of the property is \$224,000, the judicial lien did not impair the exemption.

However, after the appraisal and declaration were filed, the debtors filed an amended Schedule C on which they increased the amount of their claim of exemption in the property from \$1.00 to \$24,308. The time to object to the amended claim of exemption has not yet run, and will not have run by the time this matter is heard. However, as of this date, no party-in-interest has objected to the amended claim, and it appears there was sufficient room in the debtors' "wild-card" exemption to permit the amended claim amount. Assuming the amended claim of exemption will be allowed, the sum of the judicial lien, the deed of trust lien, and the amended exemption claim will be \$244,745. Assuming without deciding that the value of the property is as claimed by the Credit Union, \$224,000, the sum of the liens and the amended exemption claim exceeds the value of the property by \$20,745; thus, there is no excess equity in the property to secure the judicial lien, and the entire amount of the judicial lien impairs the exemption. Accordingly, the court intends to grant the motion.

The court will hear the matter.

51.	14-28709-D-13 RDG-2	JAMES/ERICKA BARNEY	CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 10-21-14 [28]
52.	14-31517-D-13 RDG-1	RICK/DENISE HUBER	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 1-9-15 [22]
53.	14-31523-D-13 JLS-1	DIANA CORTINAS	OBJECTION TO CONFIRMATION OF PLAN BY CAM VII TRUST 1-14-15 [29]
54.	14-31523-D-13 RDG-1	DIANA CORTINAS	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 1-9-15 [19]

55.	14-31524-D-13 RDG-1	PAUL/JAY WHELAN	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 1-9-15 [20]
56.	14-31633-D-13 RDG-1	CRAIG VINCENT	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 1-9-15 [42]
57.	14-31634-D-13 RDG-1	WILLARD/PATRICIA MAYNARD	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 1-9-15 [21]
58.	14-29542-D-13 JM-1	JENIE ODON AND GRACE PAULINO	CONTINUED MOTION TO VALUE COLLATERAL OF BANK OF AMERICA 11-13-14 [23]

59. 14-29348-D-13 JAMES SHAWVER  
MET-1  
U.S. BANK, N.A. VS.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY AND/OR MOTION TO  
CONFIRM TERMINATION OR ABSENCE  
OF STAY  
1-13-15 [47]

**CASE DISMISSED 1/14/15**

60. 14-27953-D-13 CLAUDIA TENNIS  
RDG-2

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
1-9-15 [71]

61. 14-31461-D-13 MERCEDES PENALOZA LAREDO  
JME-1

MOTION TO VALUE COLLATERAL OF  
LITTON LOAN SERVICING  
1-12-15 [20]

**Final ruling:**

This is the debtor's motion to value collateral of Litton Loan Servicing. The motion will be denied for the following reasons. First, the moving party gave only 22 days' notice of the hearing rather than 28 days', as required for a notice of the type used here, purporting to require the filing of written opposition 14 days prior to the hearing date. See LBR 9014-1(f)(1). (The moving party originally noticed the hearing for January 27, 2015, and served the motion on January 12, 2015. Thus, the moving party gave only 15 days' notice of the original hearing date, although the notice of hearing purported to require written opposition 14 days prior. The moving party then filed a corrected notice of hearing setting the matter for hearing on February 3, 2015. The proof of service of the corrected notice states that the corrected notice, like the original one, was served on January 12, 2015, although the corrected notice was not signed until January 13, 2015. But assuming for the sake of argument that the corrected notice of hearing was in fact served on January 12, 2015, that still gave only 22 days' notice of the February 3, 2015 hearing date. The corrected notice of hearing, like the original one, purported to require the filing of written opposition 14 days prior to the hearing date.)

Second, the moving party failed to serve Litton Loan Servicing in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. 9014(b). The moving party served Litton Loan Servicing by certified mail to the attention of an officer, whereas Litton Loan Servicing is not an FDIC-insured institution, and thus, was required to be served by first-class mail, not certified mail. See preamble to Fed. R. Bankr. P. 7004(b).

Third, 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). The motion is supported by a declaration of the debtor, which purports to establish the necessary factual allegations. However, the declaration is not signed under oath, as required by 28 U.S.C. § 1746. The "certification" on page 2 of the declaration states that the debtor "certif[ies] under penalty of perjury" that she has read the declaration. She "further certif[ies]," but not under the penalty of perjury, that the contents thereof are true and correct.

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

62.	14-31461-D-13	MERCEDES PENALOZA LAREDO	OBJECTION TO CONFIRMATION OF
	RDG-1		PLAN BY RUSSELL D. GREER
			1-9-15 [16]

63.	14-31564-D-13	SERGIO/MERIERY FRANCO	OBJECTION TO CONFIRMATION OF
	RDG-1		PLAN BY RUSSELL D. GREER
			1-9-15 [16]

64.	14-27267-D-13	SARAD/USHA CHAND	CONTINUED MOTION TO CONFIRM
	RLG-2		PLAN
			12-2-14 [34]

65.	09-42768-D-13 JDP-1	LEIGHTON SCOTT	MOTION TO VALUE COLLATERAL OF CITIBANK, N.A. 1-16-15 [41]
66.	14-31577-D-13 PD-1	CAROLYN WILSON	OBJECTION TO CONFIRMATION OF PLAN BY CREDITOR GMAT LEGAL TITLE TRUST 2014-1 1-14-15 [22]
67.	14-29093-D-13  <b>CASE DISMISSED 12/18/14</b>	ROSARIO SUAREZ	STIPULATION TO VACATE DISMISSAL 12-22-14 [35]
68.	15-20095-D-13 EJG-2	ALICE HATTON	AMENDED MOTION TO EXTEND AUTOMATIC STAY 1-9-15 [15]