

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Sacramento, California

March 14, 2017 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.	<a href="#">16-27800</a> -D-13	RONALD/CAROL CABUTAJE	MOTION TO CONFIRM PLAN
	JCK-2		1-26-17 [ <a href="#">26</a> ]

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 referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

2. [17-20401](#)-D-13 ROBERTO SAMPERA  
JCK-1

MOTION TO AVOID LIEN OF  
CITIBANK, N.A.  
2-2-17 [[8](#)]

**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 debtor is entitled. As a result, the court will grant the debtor's motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

3. [17-20401](#)-D-13 ROBERTO SAMPERA  
JCK-2

MOTION TO VALUE COLLATERAL OF  
SAFE CREDIT UNION  
2-2-17 [[13](#)]

**Final ruling:**

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

4. [16-28306](#)-D-13 GABRIEL SALAZAR-PENA  
RDG-2

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
2-13-17 [[17](#)]

**Final ruling:**

The debtors filed a statement of non-opposition to the trustee's objection to confirmation. As a result the court will sustain the objection by minute order. No appearance is necessary.

5. [09-27513](#)-D-13 THOMAS GRUDEM AND ERIN  
RAI-2 HICKEY-GRUDEM

MOTION FOR CONTEMPT  
2-2-17 [[61](#)]

**Final ruling:**

This is a motion ostensibly of the debtors to avoid the lien of a deed of trust the debtors claim is held by Select Portfolio Servicing, Inc. The motion will be denied for the following reasons: (1) the moving papers were signed by an attorney who has not substituted into this case, and thus, is not the debtors' attorney of record; (2) the original proof of service does not identify the documents served; and (3) the notice of motion and motion are a single document, contrary to LBR 9014-1(d)(3) and 9004-1, the latter incorporating the court's Revised Guidelines for the Preparation of Documents, Form EDC 2-901.

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

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- 1 The moving parties filed an amended notice of hearing; the proof of service of that document does identify the document served. However, there is no evidence of service of the notice of motion and motion, the memorandum of points and authorities, or the supporting declarations and exhibits.

6. [16-28416](#)-D-13      CONSTANCE WHITLOCK  
RDG-1

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
2-13-17 [[26](#)]

7. [16-25818](#)-D-13      PAUL/THERESE WOODRUFF  
JWS-1

MOTION TO CONFIRM PLAN  
1-30-17 [[28](#)]

**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 referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

8. [15-29824](#)-D-13      DANILO/HYDIE CRUDA  
CJY-2

MOTION TO MODIFY PLAN  
2-1-17 [[41](#)]

**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 referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

9. [11-38925](#)-D-13      THOMAS BALDI  
EGS-1

MOTION TO APPROVE LOAN  
MODIFICATION  
2-11-17 [[76](#)]

**Tentative ruling:**

This is the motion of Bayview Loan Servicing, LLC, for approval of its loan modification agreement with the debtor. The motion states the agreement was "entered into" in November of 2016, having been signed by the debtor on November 17, 2016 and by Bayview on November 30, 2016. Bayview now requests the court approve the agreement "and that the Loan Modification become permanent upon approval of this Court." Bayview's Motion, DN 76, at 4:2-3.

This case was open and pending from August 2, 2011 to December 20, 2016, when it was closed without entry of a discharge due to the debtor's failure to file the required § 1328 certificate. The debtor has since caused the case to be reopened and has filed the § 1328 certificate. A discharge was entered on February 13, 2017. The court assumes the only reason the case has not been re-closed is the pendency of this motion, which was filed February 11, 2017. The court has reviewed the Modification of Deed of Trust filed by Bayview as an exhibit and does not find this court's approval to be a condition to the agreement. Bayview did not find it necessary to seek the court's approval at the time the agreement was entered into, although the case was then pending, and there is nothing in the agreement suggesting it would "become permanent" only upon court approval. Bayview has not explained why approval is necessary at this time or in what way approval would cause the modification to "become permanent." The debtor has not signed off on the motion or otherwise asked the court to approve the agreement. Even if he had, however, absent further persuasive explanation, the court intends to deny the motion as unnecessary.

The court will hear the matter.

10. [17-20427](#)-D-13 BRUCE KERN  
CLH-1

MOTION TO VALUE COLLATERAL OF  
PREMIER COMMUNITY CREDIT UNION  
2-13-17 [[14](#)]

**Final ruling:**

This matter has been resolved by stipulation of the parties. Moving party it to submit an appropriate order. No appearance is necessary.

11. [14-21631](#)-D-13 MICHAEL/NANNETTE FARIA  
HWW-2

CONTINUED MOTION TO MODIFY PLAN  
6-30-16 [[71](#)]

12. [14-29233](#)-D-13 ALVIN/STACEY TWIGGS  
MSN-2

MOTION TO MODIFY PLAN  
1-27-17 [[52](#)]

**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 referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

13. [16-27933](#)-D-13 ADANELLY LEWIS  
ADR-1

MOTION TO CONFIRM PLAN  
1-30-17 [[18](#)]

**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 Diane Lewis, listed on the debtor's Schedule D. Thus, the debtor failed to serve all creditors, as required by Fed. R. Bankr. P. 2002(b).

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

14. [16-28037](#)-D-13 FELIX AJAYI  
RDG-3

OBJECTION TO DEBTOR'S CLAIM OF  
EXEMPTIONS  
1-30-17 [[29](#)]

**Final ruling:**

This case was dismissed on March 1, 2017. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

15. [12-30441](#)-D-13 ROY/RENE WHITE  
JCK-3

MOTION FOR CONSENT TO ENTER  
INTO LOAN MODIFICATION  
AGREEMENT  
2-2-17 [[38](#)]

**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 for consent to enter into loan modification agreement is supported by the record. As such the court will grant the motion by minute order. No appearance is necessary.

16. [16-25444](#)-D-13 SERGIO ZAMORA  
LR-1

MOTION TO CONFIRM PLAN  
1-23-17 [[47](#)]

**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 either of the creditors filing claims in this case at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g); (2) the moving party failed to serve any of the four creditors requesting special notice in this case at their designated addresses, as required by the same rule; (3) the moving party failed to serve the U.S. Dept. of Education at its address on the Roster of Governmental Agencies, as required by LBR 2002; and (4) the proofs of service are not signed under oath, as required by 28 U.S.C. § 1746.

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

17. [16-25745](#)-D-13      PHILLIP HAMMONS      MOTION TO CONFIRM PLAN  
DCJ-3      1-30-17 [[59](#)]

18. [16-23647](#)-D-13      GINA CRONIN      MOTION TO CONFIRM PLAN  
DCJ-3      1-30-17 [[63](#)]

19. [16-25055](#)-D-13      HANK WALTH      MOTION TO CONFIRM PLAN  
HWW-6      1-27-17 [[58](#)]

**Final ruling:**

This is the debtor's motion to confirm an amended chapter 13 plan. Although the debtor has requested a continuance, the motion will be denied because the proof of service gives the date of service as November 15, 2016 whereas it was not signed until January 28, 2017 and the notice and motion were not signed until January 27, 2017.

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

20. [15-29157](#)-D-13      RICO/ELIZABETH DUNGCA      MOTION FOR RELIEF FROM  
AP-1      AUTOMATIC STAY  
HSBC BANK USA, N.A. VS.      2-9-17 [[21](#)]

21. [16-27657](#)-D-13 LAUREN/DOUGLAS MILLER CONTINUED OBJECTION TO  
RDG-1 CONFIRMATION OF PLAN BY RUSSELL  
D. GREER  
1-13-17 [[23](#)]

22. [16-28458](#)-D-13 ERNESTO CASILLAS OBJECTION TO CONFIRMATION OF  
RDG-2 PLAN BY RUSSELL D. GREER  
2-13-17 [[27](#)]

**Final ruling:**

**This case was dismissed on March 1, 2017. As a result the objection will be overruled by minute order as moot. No appearance is necessary.**

23. [12-22966](#)-D-13 DINA HARRIS-WILLIAMS MOTION TO MODIFY PLAN  
JCK-7 1-23-17 [[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 referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.**

24. [16-28367](#)-D-13 DARIO CIPPONERI OBJECTION TO CONFIRMATION OF  
RDG-2 PLAN BY RUSSELL D. GREER  
2-13-17 [[18](#)]

**Final ruling:**

**This case was dismissed on March 1, 2017. As a result the objection will be overruled by minute order as moot. No appearance is necessary.**

25. [16-26671](#)-D-13 JOHN/HASINA HELMANDI  
SSA-3

MOTION FOR COMPENSATION FOR  
STEVEN S. ALTMAN, TRUSTEE'S  
ATTORNEY  
2-3-17 [[69](#)]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

26. [16-26671](#)-D-13 JOHN/HASINA HELMANDI  
SSA-4

MOTION FOR COMPENSATION FOR  
IRMA EDMONDS, CHAPTER 7 TRUSTEE  
2-3-17 [[75](#)]

27. [14-23386](#)-D-13 GUADALUPE ESQUIVEL  
TOG-1

MOTION TO MODIFY PLAN  
1-27-17 [[27](#)]

28. [15-27287](#)-D-13 GINA TOSCANO  
PGM-4

OBJECTION TO NOTICE OF MORTGAGE  
PAYMENT CHANGE  
2-8-17 [[62](#)]

**Final ruling:**

Pursuant to the stipulation filed by the parties the hearing on this motion is continued to April 25, 2017, 10:00 a.m. No appearance is necessary on March 14, 2017.



29. [13-30490](#)-D-13 CURTIS/ROSELAND ADAMS  
CJY-2

OBJECTION TO NOTICE OF  
POSTPETITION MORTGAGE FEES,  
EXPENSES, AND CHARGES  
1-18-17 [[55](#)]

**Tentative ruling:**

This is the debtors' objection to two Notices of Postpetition Mortgage Fees, Expenses, and Charges filed by Nationstar Mortgage, LLC (the "Notices"). Specifically, the debtors object to Nationstar's claims, included in the Notices, for "bankruptcy/proof of claim fees" and attorney's fees, at \$275 each. After the objection was filed and served, Nationstar filed notices stating it was withdrawing both of the Notices, and later, a response to the debtors' objection, stating that because it had withdrawn the Notices, it was requesting the hearing be taken off calendar.

The court will not remove a regularly-scheduled matter from calendar simply on the request of the responding party. However, the only relief sought by the debtors in their objection was (1) an accounting of all of the post-petition fees Nationstar was claiming and (2) proof of Nationstar's compliance with Fed. R. Bankr. P. 3002.1(c) to support its claim for the fees; or (3) if Nationstar could not prove its compliance, that the fees be reduced to \$0. The debtors have not themselves requested an award of attorney's fees.

As a result of Nationstar's withdrawal of the Notices, the court intends to overrule the objection as moot. The court will hear the matter.

30. [16-27693](#)-D-13 CHARITY SEYMOUR

MOTION TO CONFIRM PLAN  
1-31-17 [[32](#)]

**Final ruling:**

This case was dismissed on March 1, 2017. As a result the motion will be denied by minute order as moot. No appearance is necessary.

31. [13-25395](#)-D-13 ARNOLFO/MARIA LONZANIDA  
GJS-5

MOTION TO MODIFY PLAN  
1-23-17 [[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 referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

32. [16-26098](#)-D-13 PAUL RODRIGUES  
JM-2

MOTION TO CONFIRM PLAN  
1-20-17 [[31](#)]

**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 referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

33. [16-26798](#)-D-13 SAMUEL ROSAS  
JAD-1

MOTION TO CONFIRM PLAN  
1-18-17 [[22](#)]

**Tentative 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 all creditors, as required by Fed. R. Bankr. P. 2002(b). Specifically, the moving party failed to serve Great Lakes, listed on his Schedule G on account of his "daughter's student loan." It seems likely this creditor should have been listed on Schedule H. In any event, however, minimal research into the case law concerning § 101(5) and (10) of the Bankruptcy Code discloses an extremely broad interpretation of "creditor," certainly one that includes parties listed on the debtor's Schedules G and H. The court notes that the debtor also failed to comply with Bankr. P. 1007(a)(1), which requires a debtor to include on his or her master address list all parties included or to be included on his or her schedules, including Schedules G and H.

As a result of this service defect, the motion will be denied by minute order. Alternatively, the court will continue the hearing and allow the debtor to cure this service defect. The court will hear the matter.

34. [14-29812](#)-D-13 ANDRE COOPER AND KIMBERLY  
WMR-110 GILLIAM

CONTINUED MOTION TO MODIFY PLAN  
1-11-17 [[150](#)]