

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

April 25, 2017 at 10:00 a.m.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

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

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

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

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

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

1.	17-20700-D-13 RDG-2	TERRY ESSARY	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 3-27-17 [18]
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2.	17-20700-D-13 USA-1	TERRY ESSARY	OBJECTION TO CONFIRMATION OF PLAN BY INTERNAL REVENUE SERVICE 3-20-17 [12]
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3. 12-20705-D-13 STEPHEN/JUDITH AYRES
CLH-1

MOTION TO SUBSTITUTE STEPHEN
CHARLES AYRES AS SUCCESSOR TO
DECEASED DEBTOR, MOTION FOR
CONTINUED ADMINISTRATION OF
CASE, ETC.
3-20-17 [55]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion to substitute Stephen Charles Ayres as successor to deceased debtor, motion for continued administration of case, etc. is supported by the record. As such the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

4. 14-20409-D-13 MICHAEL NGUYEN AND LISA
JCK-6 LIEN

OBJECTION TO CLAIM OF RESURGENT
MORTGAGE SERVICING/THE BANK OF
NEW YORK MELLON, CLAIM NUMBER 9
3-2-17 [62]

Final ruling:

Objection withdrawn by moving party. Matter removed from calendar.

5. 17-20211-D-13 ROBERT/CYNTHIA RANGEL
JCK-1

MOTION TO AVOID LIEN OF
PROFESSIONAL COLLECTION
CONSULTANTS
3-10-17 [22]

Final ruling:

This is the debtors' motion to avoid a judicial lien held by Professional Collection Consultants ("Professional"). The motion will be denied for the following reasons: (1) the notice of hearing and other papers state the hearing will be held at the Modesto courthouse, whereas this is a Sacramento Division case and a Sacramento Division calendar; and (2) the proof of service and amended proof of service both state that Janice Kyle served the documents and both state that she declares the foregoing to be true and correct under penalty of perjury, but both are signed "/s/ (Gregory J. Smith, Esq.)."

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

6. 17-21512-D-13 MARIANNE DANIA
MJD-1

MOTION TO VALUE COLLATERAL OF
FCI LENDER SERVICES, INC.
3-15-17 [10]

Final ruling:

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

7. 13-27613-D-13 JAMES/JENNY BRADLEY
MSN-1

MOTION TO MODIFY PLAN
2-28-17 [84]

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. 13-27613-D-13 JAMES/JENNY BRADLEY
MSN-2

OBJECTION TO CLAIM OF TOYOTA
MOTOR CREDIT CORPORATION, CLAIM
NUMBER 1
3-6-17 [90]

Tentative ruling:

This is the debtors' objection to the claim of Toyota Motor Credit Corporation ("Toyota"), Claim No. 1 on the court's claims register. For the following reason, the court intends to overrule the objection.

The ground for the objection is that the vehicle securing the claim has been sold, with court approval, and the claim has been paid off. The debtors have submitted their declaration authenticating a copy of a letter they received from Toyota dated April 15, 2015 stating it had received the final payment and the account "will be considered as paid in full as of 4/8/15." Debtors' Ex. A. The debtors' objection to the claim states that both the trustee's office and the debtors' counsel have tried to get Toyota to send a letter directly to the trustee's office showing the claim as paid in full or to file an amended proof of claim showing there is no further payment due. Because they have been unable to accomplish either, the debtors believe the claim should be disallowed.

The objection represents a misunderstanding of the claims process. Under § 502(b) of the Bankruptcy Code, claims are determined as of the date of the petition. Here, the debtors do not dispute that the amount of Toyota's claim, as of the petition date, was the amount shown on Toyota's proof of claim. (In fact, on their Schedule D, the debtors listed the claim in a slightly higher amount.) The post-petition satisfaction of a claim, such as by way of the sale of collateral and application of the proceeds to the debt, constitutes a treatment of the claim, not a ground for objecting to the claim. The grounds for objecting to a claim are set forth in § 502(b); satisfaction of the claim during the case, whether through a chapter 13 plan or otherwise, is not among them.

Further, as a practical matter, the court sees no need for the claim to be either disallowed or amended. The debtors' second modified plan, which is the subject of a motion to confirm that is also on this calendar, provides as follows concerning Toyota's secured claim:

Toyota Motor Credit shall be allowed as a Class 2 secured claim to the extent previously paid by the Trustee. Toyota Motor Credit's claim was paid in full in April 2015 with the sale of the 2011 Toyota Sienna, per

approval by the Court to Debtors['] Motion to Sell on March 17, 2015 (D.C. No.: JAD-003). The buyer of said vehicle, CarMax, sent the payoff payment, of approximately \$13,633.45, directly to Toyota Motor Credit.

Debtors' Chapter 13 Plan - Second Modified, DN 86, p. 7. Confirmation of the plan should be sufficient for the trustee's purposes in making no further payments on Toyota's claim. In any event, the post-petition payment of a claim is not a ground for disallowing a claim that was accurate as of the petition date. For this reason, the court intends to overrule the objection. The court will hear the matter.

9. 17-20024-D-13 CARL CARMICHAEL
GMW-3

MOTION TO VALUE COLLATERAL OF
U.S. BANK, N.A.
3-24-17 [38]

Tentative ruling:

This is the debtor's motion to value collateral of U.S. Bank, N.A. (the "Bank"). The Bank has filed opposition. For the following reasons, the court intends to deny the motion.

The debtor seeks to value the Bank's secured claim at \$485,000 based on the alleged value of the Bank's collateral, a rental property owned by the debtor and, apparently, two others. (See below.) The debtor states the amount due on the Bank's lien is \$645,297; the Bank alleges it is \$678,945. In either event, there is a considerable portion of the Bank's claim that would be determined to be unsecured if the motion is granted.

In support of the motion, the debtor has submitted a declaration of a licensed residential appraiser and a copy of his appraisal. The appraiser believes the market value of the property is \$485,000 as of February 27, 2017. The Bank challenges the appraisal as being "as of" a date almost two months after the petition date in this case. The Bank offers an appraisal it obtained as of the petition date, showing a value of \$550,000. The court need not determine the relevant date for the valuation at this stage because the Bank's appraisal is inadmissible. The Bank states it did not have time to get the appraiser's declaration and requests additional time if the court is inclined to grant the motion. The Bank's second point may make that unnecessary.

As the Bank points out, in Enewally v. Wash. Mut. Bank (In re Enewally), 368 F.3d 1165 (9th Cir. 2004), the Ninth Circuit held a chapter 13 debtor may not "strip down" a secured claim based on the value of the collateral and also pay the stripped-down amount over a period of time longer than the life of the plan. 368 F.3d at 1167. "In this appeal, we consider whether a Chapter 13 bankruptcy plan may provide for dividing a loan into secured and unsecured claims, commonly referred to as 'lien stripping,' with the debtor satisfying the secured claim beyond the life of the Chapter 13 plan. We conclude that this type of plan is not permitted under Chapter 13 of the Bankruptcy Code" Id. In short, "a debtor may not use § 506(a) in combination with § 1322(b)(5) to reduce the secured claim and repay it over a period longer than the plan term." Id. at 1172.

The debtor has set for hearing on May 9, 2017, a hearing on a motion to confirm a plan that would pay the Bank \$485,000 with 3.25% interest at \$1,350 per month.¹ The court has run the amortization schedule and finds that, at that interest rate

and rate of payment, it would take 111 years to pay the principal amount of \$485,000. To pay the \$485,000 within the 60-month life of the proposed plan, with 3.25% interest, would require monthly payments of \$8,768. Thus, obviously, the debtor cannot comply with Enewally simply by making monthly payments through the plan.

The court would expect the debtor to respond that the plan also proposes he will immediately put the property up for sale. The plan does not require the debtor to sell the property within any particular time frame or even during the life of the plan. Although the plan does not indicate the price the debtor would need to obtain for the property, the court assumes he is planning to sell it for at least enough to pay off the Bank's claim in the stripped-down amount proposed in this motion, \$485,000; otherwise, there would be no purpose to this valuation motion. But even if the plan were amended to require the debtor to sell the property by the end of the plan term or by some earlier date and even if the court concluded such a sale is feasible and proposed in good faith, and even assuming such a proposal would satisfy Enewally, the debtor would still not be entitled to strip down the Bank's claim based on the record in the case. This is because it appears at least one other person or entity is a co-owner of the property with the debtor, whereas under § 506(a), a debtor may value only his or her own interest in property.

The debtor states in his declaration, "At the time that I filed bankruptcy, I owned an interest in the real property" Debtor's Decl., DN 40, at 1:24.2 On the debtor's Schedule A, he described his ownership interest in the property as "fee simple 1/3 interest" and checked the box indicating that at least one other person has an interest in the property.

"An allowed claim of a creditor secured by a lien on property in which the estate has an interest . . . is a secured claim to the extent of the value of such creditor's interest in the estate's interest in such property" § 506(a)(1) (emphasis added). Thus, a creditor has a secured claim in a bankruptcy case only to the extent of its interest in the estate's interest in property. To the extent of the creditor's interest in any interest in the property that is not property of the estate, the creditor is unsecured. To the extent property is owned by some person or entity other than the debtor, the debtor may not value the creditor's claim under § 506(a)(1) and the creditor is properly treated as an unsecured creditor in the case. See Associates Commer. Corp. v. Rodio (In re Rodio), 257 B.R. 699, 702 (Bankr. D. Conn. 2001). Further, the creditor may be entitled to relief from stay to enforce its security interest in the property not belonging to the estate. Id.

Another judge of this court held that a debtor who is not the sole owner of property may not "extinguish all of a secured creditor's rights in its collateral through the use of 11 U.S.C. § 506(a)." In re Rodriguez, 156 B.R. 659, 660 (Bankr. E.D. Cal. 1993) (Dorian, J.).

[S]ection 506 permits valuation only of the estate's interest in the property. If the debtor, as appears is the case here, has a 50% interest in the property, then the secured creditor has a secured claim as to the value of that 50% only-insofar as the debtor's interest is concerned-and an unsecured claim for the entire balance of the obligation. [¶] This results in the creditor still having a secured claim in the full amount of the obligation as to the 50% of the property not belonging to the estate, but belonging to the co-owner/co-obligor. Where does such a confusion of rights and interests leave the parties involved? Pending a more insightful analysis not presently available to the court, the only

logical result is to rule that a debtor holding only a fractional interest in property cannot utilize section 506 to value a secured claim.

The court in In re Solis, 356 B.R. 398, 413 (Bankr. S.D. Tex. 2006), citing Rodriguez, agreed with it:

The Court is not aware of any authority for bifurcation of a lien secured by property in which the estate holds only a nominal interest and for payment of the reduced claim in such a way that would eliminate the lien as it applies to the equitable interest owned by a non-debtor.[fn] Section 506(a) simply does not allow bifurcation of a lien to the extent that the lien attaches to the equitable interest that is not property of the estate.

Similarly, the court in Gotttron v. OneWest Bank, FSB (In re Gotttron), 2012 Bankr. LEXIS 1142, *3-5 (Bankr. D. Md. 2012), rejected the debtor's attempt to value both his and his non-filing spouse's interests in property as tenants by the entirety under § 506(a). The court in Veneziale v. Midfirst Bank (In re Veneziale), 267 B.R. 695, 701-02 (Bankr. E.D. Pa. 2001), took a different approach, finding it could value the debtor's one-half interest in the property under § 506(a). However, whether this court follows Rodriguez or Veneziale, the present motion cannot be granted because the debtor is attempting to value the entire property, not just his partial interest in it, contrary to § 506(a).

The Ninth Circuit has issued a decision that, if not binding in the present case, is instructive.

The question in this case is whether an IRS claim for delinquent taxes secured outside of bankruptcy by a lien on a debtor's interest in an ERISA-qualified pension plan is secured in bankruptcy "by a lien on property in which the bankruptcy estate has an interest" under 11 U.S.C. § 506(a). This question has divided the courts that have considered it. We hold that such a claim is not secured within the meaning of § 506(a) because a debtor's interest in an ERISA-qualified plan is excluded from the bankruptcy estate pursuant to 11 U.S.C. § 541(c)(2).

IRS v. Snyder, 343 F.3d 1171, 1173 (9th Cir. 2003). Significantly for purposes of the present case, the court added, "Although exclusion of Snyder's interest in the plan from the bankruptcy estate precludes the IRS from attaining secured status in the bankruptcy proceeding, the IRS's liens against Snyder's interest are not extinguished or otherwise affected. The liens continue to exist, but outside of bankruptcy." Id. at 1179.

Property is to be valued under § 506(a) "in light of the purpose of the valuation and of the proposed disposition or use of such property, and in conjunction with any hearing on such disposition or use or on a plan affecting such creditor's interest." § 506(a). The court concludes, absent any other indication, that the debtor's purpose in valuing the Bank's secured claim is to sell the property and pay the stripped-down amount, \$485,000, through the plan. However, because the debtor is attempting to strip down the value of the Bank's lien as to the entire property, including the interests of non-debtors, rather than just the debtor's interest, the motion cannot be granted.³

The court will hear the matter.

- 1 The plan was filed only as an attachment to the motion and not separately, as required by LBR 3015-1(d)(1).
- 2 The motion itself is, to put it generously, less revealing: "The Debtor owns the real property and improvements generally described as [address]." Debtor's Motion, DN 38, at 1:25-26.
- 3 The court notes that the debtor listed on his Schedule A the "current value of the entire property" and the "current value of the portion [the debtor] own[s]" as the same value, \$480,000. Thus, the interests of the person or persons holding the other 2/3 interest in the property appear to have no value. Without more, the court is not prepared to conclude the debtor may strip down the value of the secured claim as to the debtor's interest only, and not the interests of his co-owners. As an aside, the debtor would need to prove to the court that his co-owners would consent to the proposed sale or that the property could be sold on some other basis under § 363(f). The debtor did not list his co-owners as co-debtors on his Schedule H and did not indicate on his Schedule D that anyone other than the debtor is an obligor on the debt. It appears the debtors' co-owners have not been given notice of this case.

10. 15-29426-D-13 DANIEL/NORA OMALZA MOTION TO MODIFY PLAN
TBK-1 3-23-17 [47]

11. 15-29426-D-13 DANIEL/NORA OMALZA MOTION TO INCUR DEBT
TBK-2 3-23-17 [52]

12. 17-20829-D-13 ALBERTO DELAROSA AND CONTINUED OBJECTION TO
PPR-1 ESPERANZA LOREDO CONFIRMATION OF PLAN BY U.S.
BANK, N.A.
2-28-17 [19]

13. 17-21532-D-13 TIMOTHY BROOKS
CLH-1

MOTION TO VALUE COLLATERAL OF
FINANCIAL CENTER CREDIT UNION
3-14-17 [12]

Final ruling:

This is the debtor's motion to value collateral of Financial Center Credit Union; namely, a 2009 Ford F150. The motion will be denied for two reasons. First, the moving papers give conflicting information about the relief sought. The motion states that the debtor seeks an order setting the value of the collateral at \$20,520.52, whereas the debtor's declaration states that in his opinion, the replacement value of the vehicle is \$11,247. Second, the motion is not accompanied by evidence demonstrating that the moving party is entitled to the relief requested, as required by LBR 9014-1(d)(7). The moving papers do not indicate when the debt was incurred, whether the debt is secured by a purchase money security interest, or whether the vehicle was acquired for the personal use of the debtor. Nor do the debtor's schedules provide any of this information, although it appears the debtor is employed and does not own a business. Thus, it appears likely the vehicle was acquired for personal use. Because of this lack of information, the court is unable to determine whether, pursuant to the hanging paragraph that follows § 1325(a)(9), the debtor is entitled to value the claim at less than its full amount.

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

14. 17-21532-D-13 TIMOTHY BROOKS
CLH-2

MOTION TO VALUE COLLATERAL OF
FINANCIAL CENTER CREDIT UNION
3-14-17 [8]

Final ruling:

This is the debtor's motion to value collateral of Financial Center Credit Union; namely, a 2003 Harley Davidson. The motion will be denied for two reasons. First, the moving papers give conflicting information about the relief sought. The motion states that the debtor seeks an order setting the value of the collateral at \$11,702.17, whereas the debtor's declaration states that in his opinion, the replacement value of the vehicle is \$8,601. Second, the motion is not accompanied by evidence demonstrating that the moving party is entitled to the relief requested, as required by LBR 9014-1(d)(7). The moving papers do not indicate when the debt was incurred, whether the debt is secured by a purchase money security interest, or whether the vehicle was acquired for the personal use of the debtor. Nor do the debtor's schedules provide any of this information, although it appears the debtor is employed and does not own a business. Thus, it appears likely the vehicle was acquired for personal use. Because of this lack of information, the court is unable to determine whether, pursuant to the hanging paragraph that follows § 1325(a)(9), the debtor is entitled to value the claim at less than its full amount.

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

15. 17-20652-D-13 RYAN KLASSEN
RDG-2

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
3-27-17 [18]

Final ruling:

This is the trustee's objection to confirmation of the debtor's original chapter 13 plan. On April 14, 2017, the debtor filed a first amended plan (albeit without a motion to confirm it, as required by LBR 3015-1(d)(1)). As a result of the filing of the first amended plan, the debtor's original plan is no longer operative and this objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

16. 16-27063-D-13 GIL/JOANNA BUSS
MJD-2

MOTION TO MODIFY PLAN
3-13-17 [40]

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.

17. 17-20770-D-13 SHERYL HUDSON
RDG-2

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
3-27-17 [26]

18. 16-26671-D-13 JOHN/HASINA HELMANDI
RDG-2

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
3-13-17 [90]

Final ruling:

This is the trustee's objection to the debtors' claim of exemption of their residence. On March 22, 2017, the debtors filed an amended Schedule C. As a result of the filing of the amended Schedule C, the objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

19. 15-27776-D-13 INGEMAR/JENNIFER TOLENADA CONTINUED MOTION FOR RELIEF
RDW-1 FROM AUTOMATIC STAY AND/OR
UNCLE CREDIT UNION VS. MOTION FOR ADEQUATE PROTECTION
12-20-16 [52]
20. 15-27776-D-13 INGEMAR/JENNIFER TOLENADA CONTINUED MOTION FOR RELIEF
RDW-2 FROM AUTOMATIC STAY AND/OR
UNCLE CREDIT UNION VS. MOTION FOR ADEQUATE PROTECTION
12-21-16 [60]
21. 15-22683-D-13 CHARLES/DELORES FRANKLIN MOTION TO MODIFY PLAN
BSH-1 2-27-17 [25]

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.

22. 14-23386-D-13 GUADALUPE ESQUIVEL MOTION TO MODIFY PLAN
TOG-2 3-14-17 [36]

23. 15-27287-D-13 GINA TOSCANO
PGM-4

CONTINUED OBJECTION TO NOTICE
OF MORTGAGE PAYMENT CHANGE
2-8-17 [62]

Final ruling:

The hearing on this objection is continued to May 9, 2017 at 10:00 a.m. per the stipulated order entered on April 19, 2017. No appearance is necessary.

24. 17-20487-D-13 SCOTT/ANNA JOHNSON
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
3-27-17 [22]

25. 16-26798-D-13 SAMUEL ROSAS
JAD-1

CONTINUED MOTION TO CONFIRM
PLAN
1-18-17 [22]

Final ruling:

The hearing on this motion was continued to permit the moving party to cure a service defect, which the moving party has done. 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.

26. 17-21913-D-13 ROBERT/JENNIFER WILLIAMS

MOTION TO EXTEND AUTOMATIC STAY
4-11-17 [14]

Tentative ruling:

The matter is resolved without oral argument. This is the debtors' motion to extend the automatic stay pursuant to § 362(c)(3) of the Bankruptcy Code. The motion will be denied because the moving parties set the motion for hearing on a date beyond the 30-day period following the commencement of the case. Specifically, the hearing date, April 25, 2017, is the 33rd day after the date this case was filed, March 23, 2017. Thus, the hearing cannot be completed before the expiration of that period, as required by § 362(c)(3)(B). "Section 362(c)(3)(B) mandates that the motion and hearing be completed within thirty days." In re Genaro, 2007 Bankr. LEXIS 4818, *6 (9th Cir. BAP 2007). This is one of two distinct requirements; that is, the 30-day time limit applies regardless of whether the current case was filed in good faith. Id.

The court notes also that the moving parties failed to utilize a docket control number on their moving papers, as required by LBR 9014-1(c).

Because the hearing on the motion cannot be completed within the 30 days following the date of filing of this case, the court intends to deny the motion by minute order. The court will hear the matter.

27.	17-20242-D-13 KAZ-1	LEMUEL/JANETTE BALICO	CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY WELLS FARGO BANK, N.A. 2-14-17 [14]
28.	16-28157-D-13 LRR-3	MARK/JEANETTE WEBER	CONTINUED MOTION TO CONFIRM PLAN 2-22-17 [29]
29.	17-21079-D-13 RDG-2	CAROL/BOBBIE STEPPS	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 4-11-17 [18]