

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Modesto, California

July 1, 2014 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.	14-90700-D-13	COREY HUGHES	MOTION TO EXTEND AUTOMATIC STAY
	DEF-1		6-5-14 [18]

Tentative ruling:

This is the debtor's motion to extend the automatic stay pursuant to § 362(c)(3) of the Bankruptcy Code. For the guidance of the parties, the court issues this tentative ruling.

As provided in § 362(c)(3)(B), the court may extend the stay only after notice and a hearing completed before the expiration of the 30-day period following the filing of the later case. This case was commenced on May 14, 2014; the 30th day after that day was June 13, 2014. Because the hearing will not be completed within the 30-day period, the motion will be denied.

The court will hear the matter.

2. 14-90002-D-13 GREGORY SCOTT  
DCJ-2

MOTION TO CONFIRM PLAN  
5-19-14 [43]

3. 14-90503-D-13 CARLOS/ARACELI MARTINEZ  
RDG-1

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
5-30-14 [29]

4. 11-90804-D-13 GURMIT BIRK  
PGM-6

MOTION TO MODIFY PLAN  
5-19-14 [111]

**Final ruling:**

This is the debtor's motion to confirm a modified chapter 13 plan. The trustee objects on the basis that the plan provides for JPMorgan Chase Bank (the "Bank") as a Class 2 claim reduced to \$54,491 based on the alleged value of the Bank's collateral, whereas the court has not entered an order valuing the collateral. That is not precisely accurate. Over two years ago, the court determined, by way of an order that is long since final, that the Bank's claim, which is secured by a second position deed of trust on the debtor's residence, is partially secured, and thus, must be treated as secured for purposes of plan confirmation.

The Bank has filed a proof of secured claim in the amount of \$185,813. By contrast, the proposed plan lists the amount claimed by the creditor as \$54,491, the value of the collateral as "NONE," and the proposed monthly dividend as "NONE." (The \$54,491 figure was the amount the debtor had sought to fix in his motion to value the claim, a position that was rejected by the court.) The court finds that the plan fails to comply with § 1322(b)(2) and has not been proposed in good faith, in that it completely ignores the court's ruling on the debtor's motion to value.

The debtor has filed a reply to the trustee's opposition in which he passes off as a "clerical error" and a "mere typographical error," stating that the Bank's claim on account of its second deed of trust should have been listed in Class 4 of the plan. He proposes that the error be corrected in the order confirming the plan. The court does not view the listing of a claim in the wrong class, especially where, as here, the value of the creditor's collateral and the proposed monthly dividend are both incorrectly listed as "NONE," as a "mere typographical error" or a clerical error. As it is clear the plan does not properly treat the Bank's claim, the motion will be denied.

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

5. 10-92223-D-13 BRYAN/NALY PHENG  
CJY-5

MOTION TO MODIFY PLAN  
5-27-14 [66]

**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. 09-93925-D-13 EMMETT TEMPLETON  
JDP-2

MOTION TO VALUE COLLATERAL OF  
CITIBANK, N.A.  
6-4-14 [72]

7. 10-90032-D-13 URIEL/GLORIA GUTIERREZ  
TOG-1

OBJECTION TO CLAIM OF FIA CARD  
SERVICES, N.A., CLAIM NUMBER 8  
4-23-14 [77]

**Final ruling:**

The matter is resolved without oral argument. The court's record indicates that no timely opposition/response to the objection has been filed and the objection is supported by the record. Accordingly, the court will issue a minute order sustaining the debtors' objection to claim. No appearance is necessary.

8. 14-90034-D-13 MARIA SALAS  
TOG-4

MOTION TO CONFIRM PLAN  
5-13-14 [80]

9.	11-93636-D-13	ALENE WILLIAMS	MOTION TO MODIFY PLAN
	JCK-3		5-22-14 [57]

**Final ruling:**

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

10.	14-90536-D-13	RICHARD/WILBERTA BLESSING	AMENDED OBJECTION TO
	APN-1		CONFIRMATION OF PLAN BY WELLS
			FARGO BANK
			5-29-14 [22]

11.	14-90536-D-13	RICHARD/WILBERTA BLESSING	OBJECTION TO CONFIRMATION OF
	RDG-1		PLAN BY RUSSELL D. GREER
			5-30-14 [24]

12.	13-91543-D-13	SEAN AMIN	MOTION TO CONFIRM PLAN
	DCJ-5		5-19-14 [71]

13. 14-90745-D-13 DENNIS/BEVERLEY NUTSON MOTION TO VALUE COLLATERAL OF  
MMS-1 MERRILL LYNCH WEALTH MANAGEMENT  
6-4-14 [10]

**Final ruling:**

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

14. 10-94352-D-13 JAIME FIGUEROA AND SHAELY MOTION TO MAINTAIN CHAPTER 13  
CWC-2 RUIZ CASE OPEN PENDING RESOLUTION OF  
POST-DISCHARGE MATTERS  
6-3-14 [77]

**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 maintain Chapter 13 case open pending resolution of post-discharge matters is supported by the record. As such the court will grant the motion to maintain Chapter 13 case open pending resolution of post-discharge matters. Moving party is to submit an appropriate order. No appearance is necessary.

15. 14-90553-D-13 RICK/MARVELYN SOUZA OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D. GREER  
5-30-14 [23]

16. 13-90863-D-13 LEONCIO ALVARADO MOTION TO MODIFY PLAN  
TOG-15 5-12-14 [106]

17. 11-90266-D-13 JOHNNY/TAMARA MATTHEWS MOTION TO CONVERT CASE TO  
MDM-2 CHAPTER 7 AND/OR MOTION TO  
DISMISS CASE  
6-3-14 [286]
18. 13-91466-D-13 DAVID PONCINO MOTION TO MODIFY PLAN  
TAW-1 5-10-14 [23]
19. 13-91969-D-13 ROBERT HARDING MOTION TO MODIFY PLAN  
CJY-1 5-22-14 [27]
20. 13-90173-D-13 JOHN/MELISSA GUZINSKI MOTION TO MODIFY PLAN  
MLP-2 5-19-14 [42]

**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.

21. 14-90477-D-13 BONI CORDOVA-GRIMALDI  
SJS-2

MOTION TO VALUE COLLATERAL OF  
JPMORGAN CHASE BANK, N.A.  
5-16-14 [28]

**Final ruling:**

This is the debtor's motion to value collateral of JPMorgan Chase Bank (the "Bank"). The motion will be denied because, although the moving party served the Bank by certified mail to the attention of a named officer, the moving party failed to also serve the attorneys who had, 15 days earlier, filed a request for special notice on behalf of the Bank. (The proof of service of the motion includes this language: "Special Notice Parties - None." Thus, it appears the declarant contemplated serving the parties who had requested special notice, but failed to check the docket for such parties.)

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

22. 11-92578-D-13 MANUEL/LIDIA RODRIGUEZ  
JDP-1

MOTION TO VALUE COLLATERAL OF  
U.S. BANK, N.A.  
5-27-14 [33]

**Final ruling:**

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

23. 10-94683-D-13 ELLEN STALLINGS  
CWC-4

MOTION TO MAINTAIN CHAPTER 13  
CASE OPEN PENDING RESOLUTION OF  
POST-DISCHARGE MATTERS  
6-3-14 [66]

**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 maintain Chapter 13 case open pending resolution of post-discharge matters is supported by the record. As such the court will grant the motion to maintain Chapter 13 case open pending resolution of post-discharge matters. Moving party is to submit an appropriate order. No appearance is necessary.

24. 10-90391-D-13 JOSE/FILIGONIA DIAZ  
TOG-13

OBJECTION TO CLAIM OF MEMORIAL  
HOSPITAL ASSOCIATION, CLAIM  
NUMBER 10  
4-22-14 [48]

**Final ruling:**

The matter is resolved without oral argument. The court's record indicates that no timely opposition/response to the objection has been filed and the objection is supported by the record. Accordingly, the court will issue a minute order sustaining the debtors' objection to claim. No appearance is necessary.

25. 11-91293-D-13 ABEL/MARIA LARA  
JDP-1

MOTION TO VALUE COLLATERAL OF  
SPRINGLEAF FINANCIAL  
5-30-14 [48]

**Final ruling:**

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

26. 09-93094-D-13 SPENCER EDWARDS  
14-9007 RWF-3  
EDWARDS V. BANK OF AMERICA,  
N.A.

MOTION FOR ENTRY OF DEFAULT  
JUDGMENT  
6-2-14 [19]

**Tentative ruling:**

This is the plaintiff's motion for entry of a default judgment against the defendant, Bank of America (the "Bank"), in this action to determine the lien of the Bank's second position deed of trust against the plaintiff's residence to be removed and of no force and effect. With one exception, the relief requested in the motion is supported by the record, and no timely opposition to the motion has been filed. The exception is that the proof of service of the summons and complaint, filed April 9, 2014, (1) is not signed; and (2) does not identify which of the three summonses that have been issued in this case was served. Conditioned on the filing of a corrected proof of service, the motion will be granted. The court will hear the matter.

27. 14-90002-D-13 GREGORY SCOTT  
DCJ-3

MOTION TO VALUE COLLATERAL OF  
BANK OF AMERICA, N.A.  
6-17-14 [57]



28.	11-90732-D-13 MLP-3	CARLOS/RUBY TAGRE	CONTINUED MOTION TO INCUR DEBT 6-3-14 [40]
29.	13-91543-D-13 DCJ-6	SEAN AMIN	MOTION TO SELL 6-10-14 [80]
30.	09-92170-D-13 CJY-7	PERRY/NATASHA MCCALL	MOTION TO INCUR DEBT 6-17-14 [140]
31.	14-90688-D-13 CJO-1 FEDERAL NATIONAL MORTGAGE ASSOCIATION VS.	SHELLY MAX	MOTION FOR RELIEF FROM AUTOMATIC STAY 6-12-14 [21]

32. 11-93491-D-13 SHAWN/WINFRED HODGES  
CJY-2

MOTION TO APPROVE LOAN  
MODIFICATION  
6-6-14 [51]

33. 10-92297-D-13 ARTHUR/JANELLE AVALOS  
JDP-1

CONTINUED MOTION TO AVOID LIEN  
OF CITIBANK, N.A.  
5-12-14 [40]

**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.