

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Sacramento, California

August 1, 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="#">15-26602</a> -D-13 EJS-5	RICHARD EVANS AND BONNIE LEBERMAN	MOTION FOR SUGGESTION OF DEATH AND/OR MOTION FOR SUBSTITUTION AS THE REPRESENTATIVE FOR OR SUCCESSOR TO THE DECEASED DEBTOR, MOTION FOR CONTINUED ADMINISTRATION OF THE CASE 6-26-17 [ <a href="#">70</a> ]
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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 omnibus motion for suggestion of death; for substitution as the representative for or successor to the deceased debtor; and for continued administration of the case (the "motion") 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.

2. [15-22103](#)-D-13 MARK/LISA KAPOGIANNIS MOTION TO MODIFY PLAN  
JCK-4 6-20-17 [[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.

3. [17-24123](#)-D-13 ROBERT/OFELIA STUART MOTION TO VALUE COLLATERAL OF  
MJH-1 TRUST ONE MORTGAGE CORPORATION  
6-26-17 [[8](#)]

4. [17-23333](#)-D-13 SONIA MCDADE-THREADGILL OBJECTION TO CONFIRMATION OF  
AP-1 PLAN BY U.S. BANK, N.A. AND/OR  
MOTION TO DISMISS CASE  
6-29-17 [[33](#)]

5. [16-27542](#)-D-13 RUBEN JIMENEZ AND AIDA MOTION TO CONFIRM PLAN  
TOG-4 CASTILLO 6-12-17 [[72](#)]

**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.

6.     [17-23947](#)-D-13     MARK WILSON                             MOTION FOR RELIEF FROM  
          EMM-1   AUTOMATIC STAY  
          HSBC BANK USA, N.A. VS.                             6-20-17 [[11](#)]

**Final ruling:**

      This case was dismissed on July 13, 2017. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

7.     [17-22249](#)-D-13     BRAD FORESTER                             MOTION TO CONFIRM PLAN  
          PGM-1   6-7-17 [[13](#)]

**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.     [17-21752](#)-D-13     RICHARD/JENE ROSE SAMSON                     OBJECTION TO NOTICE OF  
          MJD-1   POSTPETITION MORTGAGE FEES,  
   EXPENSES, AND CHARGES  
   6-23-17 [[28](#)]

9.     [16-25058](#)-D-13     CHARLENE POOLE                             MOTION TO MODIFY PLAN  
          MJH-1   6-8-17 [[30](#)]

**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.

10. [16-20059](#)-D-13 LEY NGAR  
RWF-4

MOTION TO MODIFY PLAN  
6-14-17 [[67](#)]

11. [15-26560](#)-D-13 JOHN/ROBIN IVY  
JCK-3

MOTION TO MODIFY PLAN  
6-20-17 [[44](#)]

**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.

12. [16-22667](#)-D-13 DALE/SHERRY HALEY  
MJD-1

OBJECTION TO NOTICE OF  
POSTPETITION MORTGAGE FEES,  
EXPENSES, AND CHARGES  
6-27-17 [[35](#)]

**Tentative ruling:**

This is the debtors' objection to a Notice of Post-Petition Mortgage Fees, Expenses, and Charges filed October 11, 2016 (the "Notice") by Meriwest Credit Union ("Meriwest"). Meriwest has filed opposition. For the following reasons, the objection will be sustained in part and overruled in part.

The debtors object to the post-petition attorney's fees and other fees listed on the Notice, a total of \$1,270, comprised of \$350 for plan review, \$200 for review of "motion for relief," \$550 for preparation of a proof of claim, \$105 in appraisal/BPO fees, and \$65 for four property inspection fees (at \$16.25 each). The debtors' objections are that there is no indication of the hourly billing rate or the time it took to review and prepare these documents, that the fees are too high, and that the plan is standard and should not have required \$350 in fees to review. Meriwest responds that the charges are flat fees "approved" for the specific tasks and "do not require any further itemization." Meriwest's Response, DN 39, at 3:7-8.

The court has a vast amount of experience in assessing the reasonableness of attorney's fees for tasks performed in bankruptcy cases, and on that basis, finds that some of the charges are appropriate and others are not. The \$550 charged for preparation of the proof of claim is clearly excessive. There are two separate charges - \$300 and \$250 - the first of which appears to be for preparation of the proof of claim itself and the second for preparation of the attached Official Form

410A. It is likely that the attorneys had little to do with preparing the attachment. Instead, it appears the attachment was printed out by the creditor itself and transmitted to the attorneys for attachment to the proof of claim. While assessing attorney's fees for preparing a proof of claim (and for the other tasks itemized in the Notice) is not an exact science, on the whole, the court finds that \$200 is sufficient for preparation of the proof of claim (with attachments).

As far as the "motion for relief review" is concerned, the court has had to speculate, based on the date of the charge and the date the motion was filed, that this refers to the debtors' motion to confirm an amended plan. A Class 1 mortgage creditor like Meriwest in this case generally needs to review only a single line in the plan with four figures - the amount of the pre-petition arrears, the interest rate to be paid on those arrears, the arrearage dividend, and the amount of the ongoing mortgage payment. In this case, both the pre-petition arrears and the ongoing mortgage payment were understated in the debtors' original plan, the ongoing payment by a significant amount, whereas according to Meriwest's Official Form 410A, the higher amount included in the debtors' amended plan had been the actual amount of the mortgage payment for over a year before the debtors filed this case. Thus, the debtors objection to the attorney's fees involved in the plan review is not well founded, although the court notes the attorneys chose not to file an objection to confirmation, instead relying on the trustee's objection, which raised the issue of the understated mortgage payment. Again, the court simply cannot be exact in determining how much time would have been reasonable or at what rates, but in this case, the court will reduce the amounts charged for reviewing the original plan and the motion to confirm the amended plan from \$550 to \$300, or \$150 for each.

Finally, the court will allow the property inspection fees as actual out-of-pocket costs but will disallow the \$105 for the BPO because it was incurred pre-petition and is included in Meriwest's Attachment 410A, and thus, in the pre-petition arrears as listed on the proof of claim. For the reasons stated, the court will allow \$200 for the proof of claim, \$300 for review of the plan and motion to confirm the amended plan, and \$65 for the property inspection fees, for a total of \$565, and will disallow the balance of the fees listed in the Notice, \$705.

The court will hear the matter.

13. [17-20974](#)-D-13 KAREEM SYKES

MOTION TO CONFIRM PLAN  
6-14-17 [[49](#)]

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 papers do not include a docket control number, as required by LBR 9014-1(c); and (2) the moving party failed to serve the party requesting special notice in this case at its designated address, as required by Fed. R. Bankr. P. 2002(g).

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

14. [17-21085](#)-D-13 YANIRA HERNANDEZ  
TOG-1

MOTION TO CONFIRM PLAN  
6-8-17 [[51](#)]

**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.

15. [17-21791](#)-D-13 PATRICIA BROWN  
RDG-1

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY RUSSELL  
D. GREER  
5-12-17 [[26](#)]

**Final ruling:**

The hearing on this matter has been continued by stipulation of the parties and court order to August 29, 2017 at 10:00 a.m. No appearance is necessary on August 1, 2017.

16. [17-24626](#)-D-13 VICTOR/GLORIA LUERA  
MKM-3

MOTION TO EXTEND AUTOMATIC STAY  
7-17-17 [[18](#)]

17. [12-40727](#)-D-13 KENN CHIONG AND VERA  
JCK-3 BONPUA-CHIONG

CONTINUED MOTION TO MODIFY PLAN  
6-2-17 [[54](#)]

**Final ruling:**

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

18. [17-20829](#)-D-13 ALBERTO DELAROSA AND CONTINUED MOTION TO DISMISS  
RDG-2 ESPERANZA LOREDO CASE  
6-6-17 [[83](#)]
19. [17-23333](#)-D-13 SONIA MCDADE-THREADGILL OBJECTION TO CONFIRMATION OF  
RDG-2 PLAN BY RUSSELL D. GREER  
7-10-17 [[42](#)]
20. [17-23238](#)-D-13 LAURIE CROSBY-WILSON CONTINUED MOTION TO VALUE  
JCK-2 COLLATERAL OF PROGRESSIVE  
LEASING  
5-26-17 [[13](#)]

**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, when considered with the supplemental declaration, 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.

21. [17-23238](#)-D-13 LAURIE CROSBY-WILSON CONTINUED MOTION TO VALUE  
JCK-3 COLLATERAL OF S&S AUTO SALES  
5-26-17 [[18](#)]

**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, when considered with the supplemental declaration, 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.

22. [17-23247](#)-D-13      DAWN ARLT      OBJECTION TO CONFIRMATION OF  
RDG-2      PLAN BY RUSSELL D. GREER  
7-10-17 [[17](#)]

**Final ruling:**

**Objection withdrawn by moving party. Matter removed from calendar.**

23. [16-25449](#)-D-13      GLENER SUASIN      CONTINUED MOTION TO MODIFY PLAN  
JCK-3      6-5-17 [[57](#)]

24. [17-23364](#)-D-13      SHERRI TOLENTINO      OBJECTION TO CONFIRMATION OF  
RDG-1      PLAN BY RUSSELL D. GREER  
7-10-17 [[15](#)]

**Final ruling:**

**Objection withdrawn by moving party. Matter removed from calendar.**

25. [17-23068](#)-D-13      SILVIA QUIROGA      CONTINUED OBJECTION TO  
RDG-1      CONFIRMATION OF PLAN BY RUSSELL  
D. GREER  
6-26-17 [[26](#)]



26. [17-23068](#)-D-13 SILVIA QUIROGA

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY U.S.  
BANK, N.A.  
6-30-17 [[29](#)]

27. [17-23175](#)-D-13 BENJAMIN MANSHIP  
RDG-2

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY RUSSELL  
D. GREER  
6-26-17 [[14](#)]

**Final ruling:**

**Objection withdrawn by moving party. Matter removed from calendar.**

28. 17-24578-D-13 KATHY FEENEY  
MKM-1

MOTION TO EXTEND AUTOMATIC STAY  
O.S.T.  
7-20-17 (10)