

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman  
Bankruptcy Judge  
Sacramento, California

August 5, 2014 at 9:32 A.M.

- 
1. [13-28703](#)-B-13 FRANCIS/HEATHER KOVAC  
CA-1 CONTINUED MOTION FOR  
COMPENSATION BY THE LAW OFFICE  
OF CRODDY & ASSOCIATES, P.C.  
FOR MICHAEL D. CRODDY, DEBTOR'S  
ATTORNEY(S)  
7-4-14 [[22](#)]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

2. [14-22403](#)-B-13 JESSICA HAMMONDS  
LC-2 MOTION TO CONFIRM PLAN  
6-24-14 [[29](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted and the amended plan filed June 24, 2014, will be confirmed.

The court will issue a minute order granting the motion to confirm. Counsel for the debtor shall submit an order confirming the plan using EDC form 3-081-12 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

3. [14-26003](#)-B-13 EUGENIA DOYLE  
JPJ-1 OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-9-14 [[16](#)]

WITHDRAWN BY M.P.

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

This matter is removed from the calendar. Trustee withdrew the objection and motion to dismiss on July 14, 2014 (Dkt. 19).

4. [14-25204](#)-B-13 KEITH/KARA TREMELLING MOTION TO CONFIRM PLAN  
CAH-2 6-13-14 [[27](#)]

**Tentative Ruling:** The chapter 13 trustee's opposition is sustained. The motion to confirm the amended plan filed June 13, 2014 is denied.

The court will issue a minute order.

5. [14-25204](#)-B-13 KEITH/KARA TREMELLING COUNTER MOTION TO DISMISS CASE  
CAH-2 7-16-14 [[34](#)]

**Tentative Ruling:** The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before August 19, 2014, the debtors file a new plan and a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

6. [14-24805](#)-B-13 IRA ROSS MOTION TO VALUE COLLATERAL OF  
MLA-3 WELLS FARGO BANK, N.A.  
7-14-14 [[39](#)]

**Tentative Ruling:** This matter is removed from the calendar. The debtor withdrew the motion on August 1, 2014 (Dkt. 56).

7. [14-24805](#)-B-13 IRA ROSS MOTION TO CONFIRM PLAN  
MLA-3 6-18-14 [[32](#)]

**Tentative Ruling:** The chapter 13 trustee's opposition is sustained. The opposition of Wells Fargo Bank, N.A. ("WFB") is sustained in part. The

motion to confirm the initial plan filed June 4, 2014 is denied.

The chapter 13 trustee's opposition is sustained for the reasons set forth therein.

WFB's opposition is sustained to the extent that WFB argues that the debtor has not sustained his burden of showing that the plan is feasible pursuant to 11 U.S.C. § 1325(a)(6), and to the extent that WFB argues that the plan is dependent upon a successful motion to value its collateral, which motion the debtor has withdrawn elsewhere on this calendar.

WFB's opposition regarding the amount and appropriate interest rate to be paid on its allowed secured claim are overruled without prejudice.

The court will issue a minute order.

8. [14-24805](#)-B-13 IRA ROSS  
MLA-3

COUNTER MOTION TO DISMISS CASE  
7-16-14 [[43](#)]

**Tentative Ruling:** The trustee's countermotion is filed under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before August 19, 2014, the debtor files a new plan and a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

9. [13-29606](#)-B-13 MARIA AVINA AND GUILLERMO  
DRE-3 AVINA-SEGURA

MOTION TO CONFIRM PLAN  
6-10-14 [[150](#)]

**Tentative Ruling:** The chapter 13 trustee's opposition is sustained. The written reply filed by the debtors on July 31, 2014 (Dkt. 167) is stricken as untimely. The motion to confirm the amended plan filed June 10, 2014, is denied.

The chapter 13 trustee's opposition is sustained for the reasons set forth therein.

In addition to being untimely, the court notes that the debtors' reply does not address all of the trustee's objections, including the trustee's objection regarding the feasibility of the plan in light of the fact that there is no automatic stay in the bankruptcy case, the trustee's

objection that the aggregate of the installments and dividends proposed by the plan exceed the total amount of the proposed plan payment, the trustee's objection that the plan does not properly account for all payments made by the debtors into the plan to date or the plan's failure to comply with LBR 3015-1(f)(1). In addition, the debtors do not explain how their "prior dispute" with TD Auto Finance has been resolved, nor do they explain the basis for their assertion that PNC Bank no longer asserts a claim for pre-petition arrears, even though PNC Bank's filed claim continues to assert a claim to pre-petition arrears.

The court will issue a minute order.

10. [10-53109](#)-B-13 GREGORY PONTE  
PGM-3

MOTION TO APPROVE LOAN  
MODIFICATION  
7-3-14 [[44](#)]

**Tentative Ruling:** The motion is dismissed without prejudice.

The motion is dismissed for two reasons. First it is not ripe for adjudication. The debtor seeks approval of a permanent loan modification with Wells Fargo Bank, N.A. ("WFB"), with respect to a loan secured by the first deed of trust on real property located at 1011 Malton Way, Galt, California (the "Property"). However, the debtor has not shown that if the motion is granted that the loan modification will actually occur, as he has not shown sufficient evidence of WFB's consent to a permanent loan modification. The debtor's evidence in support of the motion consists only of a copy of a letter from WFB offering the debtor a trial loan modification and his supporting declaration (Dkt. 46) that he "has been offered" a loan modification by WFB. He has not provided evidence of an actual permanent loan modification agreement or that WFB consents to such an agreement. As a result, the motion lacks justiciability. The justiciability doctrine concerns "whether the plaintiff has made out a 'case or controversy' between himself and the defendant within the meaning of Art. III." Warth v. Seldin, 422 U.S. 490, 498, 95 S.Ct. 2197, 45 L.Ed.2d 343 (1975). Under Article III of the United States Constitution, federal courts only hold jurisdiction to decide cases and controversies. With no finalized, loan modification agreement to which all necessary parties consent or other evidence of WFB's consent to a permanent modification no case or controversy within the meaning of Article III exists.

WFB's consent to the loan modification may be manifested in ways other than executing the modification agreement. The creditor may file a response to the motion stating its agreement, or it may appear at the hearing on the motion and state its agreement on the record. Absent such evidence of consent, however, the motion is dismissed without prejudice.

The motion was also not properly served. The motion is governed by the provisions of Fed. R. Bankr. P. 4001(c). Bankruptcy Rule 4001(c)(1)(C) states that this motion must be served on certain parties and on "any other entity that the court directs." Bankruptcy Rule 4001(c)(3) states that notice of the hearing shall be given to the parties on whom service is required by 4001(c)(1) and "to such other entities as the court may direct." Based on the foregoing, the court requires that the debtor serves (consistent with the provisions of Bankruptcy Rule 7004) a motion to incur debt through a loan modification on the United States trustee,

the chapter 13 trustee, and the creditor who is the counterparty to the loan modification. The court also requires that the debtor give notice of the motion to all other creditors. In this case, the debtor served the chapter 13 trustee, the UST and gave notice of the motion to all other creditors. The debtor did not, however, serve the motion consistent with the provisions of Bankruptcy Rule 7004(h) on WFB by serving the motion on WFB via certified mail to the attention of an officer.

Them The court will issue a minute order.

11. [12-22415](#)-B-13 KATIE EVANS  
CAH-1

MOTION TO SELL  
7-8-14 [[46](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted. Pursuant to 11 U.S.C. § 363(b), the debtor is authorized to sell the real property located at 3140 Valley Oak Court, Live Oak, California to Joshua Evans for \$130,000 on the terms set forth in the motion. The debtor is authorized to execute all documents necessary to effect the sale. The 14-day stay of the order granting the motion pursuant to Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

The sale will be subject to overbidding on terms approved by the court at the hearing on the motion.

The debtor has not made a request for a finding pursuant to 11 U.S.C. § 363(m), and the court makes no such finding.

The court will issue a minute order.

12. [12-39016](#)-B-13 CHRISTENE GERHART  
JPJ-4

OBJECTION TO CLAIM OF  
ECMC/NAVIENT SOLUTIONS, CLAIM  
NUMBER 9  
6-10-14 [[50](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim No. 9, filed on May 6, 2014, by ECMC/Navient Solutions in the amount of \$2993.06 (the "Claim"), is disallowed except to the extent previously paid by the trustee.

The Claim was not timely filed. The last date to file a non-government claim was March 6, 2013, and to file a government claim was April 24, 2013. The Claim was filed on May 6, 2014.

The court will issue a minute order.

13. [14-25916](#)-B-13 JAY/ANGELA SAGARAL  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-9-14 [[17](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are sustained. Confirmation of the initial plan filed June 2, 2014, is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before August 19, 2014, the debtors file a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court acknowledges that on July 11, 2014, the debtors filed an amended Statement of Current Monthly Income and Calculation of Commitment Period And Disposable Income, Official Form B22C ("Form 22C"), which corrects the arithmetical error identified by the trustee in the objection. However, the amended Form 22C continues to show that the debtors have a positive net monthly disposable income which would require them to pay \$3198.60 to general unsecured creditors. The plan proposes to pay \$0.00 to general unsecured creditors.

The court will issue a minute order.

14. [14-25817](#)-B-13 SHANE WELLS  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON, CHAPTER  
13 TRUSTEE AND/OR MOTION TO  
DISMISS CASE  
7-15-14 [[14](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objection and motion to dismiss are dismissed.

The trustee's objection and motion to dismiss are moot. On July 23, 2014, the debtor filed an amended plan and motion to confirm. The amended plan supersedes the plan to which the trustee's objection is directed, and the motion to confirm provides the relief sought in the motion to dismiss. 11 U.S.C. § 1323(b).

The court will issue a minute order.

15. [13-35318](#)-B-13 KRISTEN GOODWIN-ALEXANDER CONTINUED MOTION TO CONFIRM  
LBG-3 AND JOSEPH ALEXANDER PLAN  
5-30-14 [[77](#)]

**Tentative Ruling:** This motion continued from July 22, 2014. The court reissues its prior tentative ruling on the motion.

The chapter 13 trustee's opposition is sustained. The motion to confirm the amended plan filed May 30, 2014, is denied.

The court will issue a minute order.

16. [13-35318](#)-B-13 KRISTEN GOODWIN-ALEXANDER CONTINUED COUNTER MOTION TO  
LBG-3 AND JOSEPH ALEXANDER DISMISS CASE  
6-9-14 [[83](#)]

**Tentative Ruling:** This matter continued from July 22, 2014. It remains in a preliminary posture under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court reissues its prior abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before August 19, 2014, the debtors file a new plan and a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

17. [14-25618](#)-B-13 SHELDON/MELANIE HIRSCH MOTION TO VALUE COLLATERAL OF  
DJC-1 SANTANDER CONSUMER USA, INC.  
7-2-14 [[15](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$4392.00 of Santander Consumer USA, Inc.'s claim in this case secured by a 2004 Lexus GX 470 ("Collateral") is a secured claim, and the balance of such claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Collateral had a value of \$4392.00 on the date of the petition.

The court will issue a minute order.

18. [14-25618](#)-B-13 SHELDON/MELANIE HIRSCH MOTION TO AVOID LIEN OF JAMES  
DJC-2 O. STEEB  
7-2-14 [[19](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted pursuant to 11 U.S.C. § 522(f)(1)(A), subject to the provisions of 11 U.S.C. § 349. The judicial lien in favor of James O. Steeb, recorded in the official records of Sacramento County, Book 20080430 Page 0584, is avoided as against the real property located at 8149 Glen Alta Way, Citrus Heights, California (the "Glen Alta Property") and as against the real property located at 8276 Longden Circle, Citrus Heights, California (the "Longden Property").

In the absence of opposition, for the purposes of this motion, the Glen Alta Property has a value of \$170,000.00 as of the date of the petition. The unavoidable liens total approximately \$175,000.00. The debtors claimed the Glen Alta Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Glen Alta Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Glen Alta Property and its fixing is avoided.

In the absence of opposition, for the purposes of this motion, the Longden Property has a value of \$306,000.00 as of the date of the petition. The unavoidable liens total \$313,312.39. The debtors claimed the Longden Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Longden Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Longden Property and its fixing is avoided.

The court will issue a minute order.

19. [14-25618](#)-B-13 SHELDON/MELANIE HIRSCH MOTION TO AVOID LIEN OF  
DJC-3 ELIZABETH L. WADE  
7-2-14 [[27](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.



The motion is granted pursuant to 11 U.S.C. § 522(f)(1)(A), subject to the provisions of 11 U.S.C. § 349. The judicial lien in favor of Elizabeth L. Wade, recorded in the official records of Sacramento County, Book 20090420 Page 0683, is avoided as against the real property located at 8149 Glen Alta Way, Citrus Heights, California (the "Glen Alta Property") and as against the real property located at 8276 Longden Circle, Citrus Heights, California (the "Longden Property").

In the absence of opposition, for the purposes of this motion, the Glen Alta Property has a value of \$170,000.00 as of the date of the petition. The unavoidable liens total approximately \$175,000.00. The debtors claimed the Glen Alta Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Glen Alta Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Glen Alta Property and its fixing is avoided.

In the absence of opposition, for the purposes of this motion, the Longden Property has a value of \$306,000.00 as of the date of the petition. The unavoidable liens total \$313,312.39. The debtors claimed the Longden Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Longden Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Longden Property and its fixing is avoided.

The court will issue a minute order.

20. [14-25618](#)-B-13 SHELDON/MELANIE HIRSCH  
DJC-4

MOTION TO AVOID LIEN OF PRICE  
FUNERAL CHAPEL, INC.  
7-2-14 [[35](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted pursuant to 11 U.S.C. § 522(f)(1)(A), subject to the provisions of 11 U.S.C. § 349. The judicial lien in favor of Price Funeral Chapel, Inc., recorded in the official records of Sacramento County, Book 20090601 Page 0199, is avoided as against the real property located at 8149 Glen Alta Way, Citrus Heights, California (the "Glen Alta Property") and as against the real property located at 8276 Longden Circle, Citrus Heights, California (the "Longden Property").

In the absence of opposition, for the purposes of this motion, the Glen Alta Property has a value of \$170,000.00 as of the date of the petition. The unavoidable liens total approximately \$175,000.00. The debtors

claimed the Glen Alta Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Glen Alta Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Glen Alta Property and its fixing is avoided.

In the absence of opposition, for the purposes of this motion, the Longden Property has a value of \$306,000.00 as of the date of the petition. The unavoidable liens total \$313,312.39. The debtors claimed the Longden Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Longden Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Longden Property and its fixing is avoided.

The court will issue a minute order.

21. [14-25618](#)-B-13 SHELDON/MELANIE HIRSCH  
DJC-5

MOTION TO AVOID LIEN OF DENNIS  
ALEXANDER  
7-2-14 [[43](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted pursuant to 11 U.S.C. § 522(f)(1)(A), subject to the provisions of 11 U.S.C. § 349. The judicial lien in favor of Dennis Alexander, recorded in the official records of Sacramento County, Book 20100119 Page 1115, is avoided as against the real property located at 8149 Glen Alta Way, Citrus Heights, California (the "Glen Alta Property") and as against the real property located at 8276 Longden Circle, Citrus Heights, California (the "Longden Property").

In the absence of opposition, for the purposes of this motion, the Glen Alta Property has a value of \$170,000.00 as of the date of the petition. The unavoidable liens total approximately \$175,000.00. The debtors claimed the Glen Alta Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Glen Alta Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Glen Alta Property and its fixing is avoided.

In the absence of opposition, for the purposes of this motion, the Longden Property has a value of \$306,000.00 as of the date of the petition. The unavoidable liens total \$313,312.39. The debtors claimed the Longden Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent

holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Longden Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Longden Property and its fixing is avoided.

The court will issue a minute order.

22. [14-25618](#)-B-13 SHELDON/MELANIE HIRSCH  
DJC-6

MOTION TO AVOID LIEN OF DENNIS  
ALEXANDER  
7-3-14 [[51](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted pursuant to 11 U.S.C. § 522(f)(1)(A), subject to the provisions of 11 U.S.C. § 349. The judicial lien in favor of Dennis Alexander, recorded in the official records of Sacramento County, Book 20100222 Page 0506, is avoided as against the real property located at 8149 Glen Alta Way, Citrus Heights, California (the "Glen Alta Property") and as against the real property located at 8276 Longden Circle, Citrus Heights, California (the "Longden Property").

In the absence of opposition, for the purposes of this motion, the Glen Alta Property has a value of \$170,000.00 as of the date of the petition. The unavoidable liens total approximately \$175,000.00. The debtors claimed the Glen Alta Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Glen Alta Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Glen Alta Property and its fixing is avoided.

In the absence of opposition, for the purposes of this motion, the Longden Property has a value of \$306,000.00 as of the date of the petition. The unavoidable liens total \$313,312.39. The debtors claimed the Longden Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Longden Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Longden Property and its fixing is avoided. The court will issue a minute order.

23. [14-25618](#)-B-13 SHELDON/MELANIE HIRSCH  
DJC-7

MOTION TO AVOID LIEN OF MOHAWK  
SERVICING, INC.  
7-3-14 [[59](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted pursuant to 11 U.S.C. § 522(f)(1)(A), subject to the provisions of 11 U.S.C. § 349. The judicial lien in favor of Mohawk Servicing, Inc., recorded in the official records of Sacramento County, Book 20100301 Page 0638, is avoided as against the real property located at 8149 Glen Alta Way, Citrus Heights, California (the "Glen Alta Property") and as against the real property located at 8276 Longden Circle, Citrus Heights, California (the "Longden Property").

In the absence of opposition, for the purposes of this motion, the Glen Alta Property has a value of \$170,000.00 as of the date of the petition. The unavoidable liens total approximately \$175,000.00. The debtors claimed the Glen Alta Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Glen Alta Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Glen Alta Property and its fixing is avoided.

In the absence of opposition, for the purposes of this motion, the Longden Property has a value of \$306,000.00 as of the date of the petition. The unavoidable liens total \$313,312.39. The debtors claimed the Longden Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Longden Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Longden Property and its fixing is avoided.

The court will issue a minute order.

24. [14-25618](#)-B-13 SHELDON/MELANIE HIRSCH  
DJC-8

MOTION TO AVOID LIEN OF BRUCE  
AND BARBARA ASHWILL  
7-3-14 [[67](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted pursuant to 11 U.S.C. § 522(f)(1)(A), subject to

the provisions of 11 U.S.C. § 349. The judicial lien in favor of Bruce Ashwill and Barbara Ashwill, dba Sheffield, Ltd., recorded in the official records of Sacramento County, Book 20100913 Page 0894, is avoided as against the real property located at 8149 Glen Alta Way, Citrus Heights, California (the "Glen Alta Property") and as against the real property located at 8276 Longden Circle, Citrus Heights, California (the "Longden Property").

In the absence of opposition, for the purposes of this motion, the Glen Alta Property has a value of \$170,000.00 as of the date of the petition. The unavoidable liens total approximately \$175,000.00. The debtors claimed the Glen Alta Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Glen Alta Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Glen Alta Property and its fixing is avoided.

In the absence of opposition, for the purposes of this motion, the Longden Property has a value of \$306,000.00 as of the date of the petition. The unavoidable liens total \$313,312.39. The debtors claimed the Longden Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Longden Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Longden Property and its fixing is avoided.

The court will issue a minute order.

25. [14-25618](#)-B-13 SHELDON/MELANIE HIRSCH  
DJC-9

MOTION TO AVOID LIEN OF DAL TILE  
DISTRIBUTION, INC.  
7-3-14 [[75](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted pursuant to 11 U.S.C. § 522(f)(1)(A), subject to the provisions of 11 U.S.C. § 349. The judicial lien in favor of Dal tile Distribution, Inc., recorded in the official records of Sacramento County, Book 20100928 Page 0914, is avoided as against the real property located at 8149 Glen Alta Way, Citrus Heights, California (the "Glen Alta Property") and as against the real property located at 8276 Longden Circle, Citrus Heights, California (the "Longden Property").

In the absence of opposition, for the purposes of this motion, the Glen Alta Property has a value of \$170,000.00 as of the date of the petition. The unavoidable liens total approximately \$175,000.00. The debtors claimed the Glen Alta Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The

respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Glen Alta Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Glen Alta Property and its fixing is avoided.

In the absence of opposition, for the purposes of this motion, the Longden Property has a value of \$306,000.00 as of the date of the petition. The unavoidable liens total \$313,312.39. The debtors claimed the Longden Property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the Longden Property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the Longden Property and its fixing is avoided.

The court will issue a minute order.

26. [14-25618](#)-B-13 SHELTON/MELANIE HIRSCH  
JLP-1  
OBJECTION TO CONFIRMATION OF  
PLAN BY BRUCE AND BARBARA  
ASHWILL  
7-8-14 [[83](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The creditors' objection is dismissed.

The creditors' objection is moot. On July 30, 2014, the debtors filed an amended plan and motion to confirm. The amended plan supersedes the plan to which the creditors' objection is directed. 11 U.S.C. § 1323(b).

The court will issue a minute order.

27. [14-25618](#)-B-13 SHELTON/MELANIE HIRSCH  
JPJ-1  
OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-9-14 [[88](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objection and motion to dismiss are dismissed.

The trustee's objection and motion to dismiss are moot. On July 30,

2014, the debtors filed an amended plan and motion to confirm. The amended plan supersedes the plan to which the trustee's objection is directed, and the motion to confirm provides the relief sought in the motion to dismiss. 11 U.S.C. § 1323(b).

The court will issue a minute order.

28. [14-25719](#)-B-13 JEFFEREY CARTER  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON  
7-15-14 [[21](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are sustained. Confirmation of the initial plan filed June 13, 2014, is denied.

The trustee's objections are sustained for the reasons set forth therein. With respect to the trustee's objection regarding the aggregate of the proposed dividends under the plan, the court notes that the debtor has listed a pre-petition arrears dividend amount for the secured claim of Wells Fargo Bank, N.A. bank that is equivalent to the total amount of the arrears. The "arrearage dividend" column of the class 1 table in the chapter 13 plan is generally intended to be for a dividend which, paid over the term of the plan at the interest rate specified in the "interest rate on arrears" column of the class 1 table, will pay the full amount of the creditor's prepetition arrears in full.

The court will issue a minute order.

29. [14-25719](#)-B-13 JEFFEREY CARTER  
PD-1

OBJECTION TO CONFIRMATION OF  
PLAN BY WELLS FARGO BANK, N.A.  
7-17-14 [[28](#)]

**Tentative Ruling:** The creditor's objections are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The creditor's objections are sustained. Confirmation of the initial plan filed June 13, 2014, is denied.

The court will issue a minute order.



30. [13-33221](#)-B-13 WILLIAM TREASTER  
JPJ-1

OBJECTION TO CLAIM OF DEPT OF  
EDUCATION/C/O SALLIE MAE INC,  
CLAIM NUMBER 5  
6-10-14 [[31](#)]

CASE DISMISSED 6/9/14

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The objection is dismissed.

The objection is moot. The bankruptcy case was dismissed by order entered June 9, 2014 (Dkt. 29).

The court will issue a minute order.

31. [14-26024](#)-B-13 ROBERT ANTHONY  
CAH-1

MOTION TO VALUE COLLATERAL OF  
BANK OF AMERICA, N.A.  
7-1-14 [[19](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Bank of America, N.A.'s ("BoFA") claim in this case secured by the second deed of trust on real property located at 3629 Comanche Way, Antelope, California (the "Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$193,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Citimortgage, Inc. with a balance of approximately \$209,000.00. Thus, the value of the collateral available to BoFA on its second deed of trust is \$0.00.

The court will issue a minute order.

32. [14-25625](#)-B-13 DOUGLAS THURSTON  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY TRUSTEE JAN P. JOHNSON  
AND/OR MOTION TO DISMISS CASE  
7-15-14 [[17](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are sustained. Confirmation of the initial plan filed May 29, 2014, is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before August 19,



2014, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

33. [14-26025](#)-B-13 THOMAS/TONYA ROGERS  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY TRUSTEE JAN P. JOHNSON  
AND/OR MOTION TO DISMISS CASE  
7-9-14 [[33](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's first and third objections are sustained. The trustee's second, fourth and fifth objections are overruled. Confirmation of the initial plan filed June 5, 2014, is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before August 19, 2014, the debtors file a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The chapter 13 trustee's second, fourth and fifth objections were overruled because the debtors have successfully valued the collateral that is the subject of those objections.

The chapter 13 trustee's first objection regarding the debtors' failure to provide trustee with a Class 1 Checklist and Authorization to Release Information to Trustee Regarding Secured Claims Being Paid by the Trustee is sustained because there is no evidence on the court's docket that the debtors have resolved that objection.

The chapter 13 trustee's third objection regarding the dependence of the plan on a successful motion to value the collateral of Wells Fargo Dealer Services consisting of a 2006 Ford Expedition is sustained because although the debtors have stipulated with Wells Fargo Dealer Services to value the collateral and to provide certain plan treatment for the creditor's secured claim, the class 2 treatment for the secured claim as proposed in the initial plan is insufficiently funded to pay the stipulated amount of the creditor's secured claim over the term of the plan. The court notes that a nonmaterial modification to the plan would cause the plan to be sufficiently funded to pay the secured claim in full; however, because the chapter 13 trustee's first objection is unresolved the court will not conditionally confirm the plan.

The court will issue a minute order.

34. [14-27328](#)-B-13 MICHAEL SCOTT AND MOTION TO EXTEND AUTOMATIC STAY  
MRL-1 MICHELLE GUSTAFSON 7-22-14 [[8](#)]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

35. [11-28430](#)-B-13 ARCHIE TERRY III CONTINUED MOTION TO MODIFY PLAN  
SAC-1 6-5-14 [[28](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted. The modified plan filed June 5, 2014, is confirmed.

The court will issue a minute order.

36. [14-25632](#)-B-13 CASEY/LACEY HUDSON OBJECTION TO CONFIRMATION OF  
JPJ-1 PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-15-14 [[19](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objection and motion to dismiss are dismissed.

The trustee's objection and motion to dismiss are moot. On July 30, 2014, the debtors filed an amended plan and motion to confirm. The amended plan supersedes the plan to which the trustee's objection is directed, and the motion to confirm provides the relief sought in the motion to dismiss. 11 U.S.C. § 1323(b).

The court will issue a minute order.

37. [09-41433](#)-B-13 CALVIN/OPHELIA KELLY  
SDB-5

MOTION TO VALUE COLLATERAL OF  
CITIBANK, N.A.  
6-20-14 [[70](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Citibank, N.A.'s ("Citibank") claim in this case secured by the second deed of trust on real property located at 243 Stanford Drive, Vallejo, California (the "Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$149,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Specialized Loan Servicing, LLC with a balance of approximately \$211,000.00. Thus, the value of the collateral available to Citibank on its second deed of trust is \$0.00.

The court will issue a minute order.

38. [14-26236](#)-B-13 CINDY GRAHAM  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-14-14 [[15](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objection and motion to dismiss are dismissed.

The trustee's objection and motion to dismiss are moot. On July 25, 2014, the debtors filed an amended plan and motion to confirm. The amended plan supersedes the plan to which the trustee's objection is directed, and the motion to confirm provides the relief sought in the motion to dismiss. 11 U.S.C. § 1323(b).

The court will issue a minute order.

39. [11-22741](#)-B-13 ANTHONY/ALMITA GREEN  
PLC-5

MOTION TO MODIFY PLAN  
6-20-14 [[70](#)]

**Tentative Ruling:** The chapter 13 trustee's opposition is overruled. The motion is granted and the modified plan filed June 20, 2014, is confirmed

with the following modifications: 1.) The plan's payment provisions shall provide that the debtors have paid a total of \$104,496.10 into the plan as of June 20, 2014, and shall pay \$2,150.00 per month on June 25, 2014 and July 25, 2014; beginning with the payment due August 25, 2014, the debtors shall pay \$2,290.00 per month for the remainder of the plan term; and 2.) The post-petition arrears owed to BAC Home Loans Servicing, LP shall be paid at rate of \$114.00 per month at 0% per annum, starting with the payment due August 25, 2014, and shall continue until the post-petition arrears are paid in full.

The debtors' proposal to pay the post-petition arrears owed to BAC Home Loans Servicing, LP is adopted by the court only because the creditor has not raised any objection to the absence of a provision for the post-petition arrears in the plan.

The court will issue a minute order.

40. [11-33441](#)-B-13 DERRICK GREEN  
JPJ-4

MOTION TO MODIFY PLAN  
6-20-14 [[86](#)]

**Tentative Ruling:** The debtor's opposition is sustained in part. The motion to confirm the modified plan proposed by the chapter 13 trustee and filed on June 20, 2014, is denied.

The motion is denied because the trustee has not sustained his burden of showing that the plan is feasible pursuant to 11 U.S.C. § 1325(a)(6). The trustee's proposed modification is dependent upon funding from the net proceeds of a sale of the debtor's residence that is no longer in prospect. As the debtor states in his opposition and supporting declaration, his proposed sale of the residence fell through following the court's denial of his motion for approval of the sale.

As for the debtor's argument that the trustee cannot reach post-petition appreciation of the value of the debtor's residence for the purpose of obtaining a greater dividend for unsecured creditors, the court believes that the "old case on this subject," which the debtor's counsel "thinks" he read is Anderson v. Satterlee (In re Anderson), 21 F.3d 355 (9th Cir.1994). However, Anderson does not stand for the proposition that a chapter 13 plan is not based on "actual events" but only on projected disposable income calculated as of the date of the filing of the petition. The Ninth Circuit Bankruptcy Appellate Panel (the "BAP") correctly states the holding of Anderson as of the following:

The law of the circuit is that the focus in § 1325(b) on "projected disposable income" means that a debtor cannot, as a condition of initial chapter 13 plan confirmation, be forced to agree to increase payments if actual income increases during performance of the plan. Anderson v. Satterlee (In re Anderson), 21 F.3d 355, 357-58 (9th Cir.1994). Subsequent increases in actual income can be captured for creditors by way of a § 1329 plan modification, which motion the debtors are entitled to oppose. Id. at 358.

Fridley v. Forsythe (In re Fridley), 380 B.R. 538, 543 (B.A.P. 9th Cir.2007).

However, the foregoing is subject to the caveat that not all post-petition financial benefits enjoyed by the debtor are classified as disposable income subject to distribution to unsecured creditors. This department follows the Ninth Circuit BAP's decision in McDonald v. Burgie (In re Burgie), 239 B.R. 406 (9th Cir. BAP 1999), in which the BAP held that "only regular income and substitutes therefor can be counted in the determination of disposable income." Id. at 410. Such income or income substitute can be in the form of a lump sum or a stream of payments. In re Profit, 283 B.R. 567, 574 (9th Cir. BAP 2002). Post-petition appreciation of a capital asset such as real property is not in the nature of disposable income. See Burgie, 239 B.R. at 410 ("The sale of a capital asset does not create "disposable income" pursuant to § 1325. . . . A debtor's pre-petition homestead is a capital asset, not postpetition income.").

The court will issue a minute order.

41. [13-35642](#)-B-13 LARRY/COLLEEN EDWARDS MOTION TO CONFIRM PLAN  
CAH-6 6-16-14 [[83](#)]

**Tentative Ruling:** The trustee's opposition is overruled. The motion is granted and the amended plan filed June 16, 2014, will be confirmed.

The trustee's opposition is resolved by the granting of the debtors' motion to value the collateral of Deutsche Bank National Trust Company (serviced by Ocwen Loan Servicing, LLC) elsewhere on this calendar without oral argument.

The court will issue a minute order overruling the trustee's opposition and granting the motion to confirm. Counsel for the debtors shall submit an order confirming the plan using EDC form 3-081-12 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

42. [13-35642](#)-B-13 LARRY/COLLEEN EDWARDS MOTION TO VALUE COLLATERAL OF  
CAH-7 DEUTSCHE BANK NATIONAL TRUST  
COMPANY  
6-16-14 [[89](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Deutsche Bank National Trust Company's ("Deutsche Bank") claim in this case secured by the second deed of trust on real property located at 7013 Cinnamon Teal Way, El Dorado Hills, California (the "Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$423,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Citimortgage, Inc. with a balance of approximately \$557,000.00. Thus, the value of the collateral available to Deutsche Bank on its second deed of trust is \$0.00.

The court will issue a minute order.

43. [14-26042](#)-B-13 DANNY/STACY MOLLER MOTION TO VALUE COLLATERAL OF  
JDM-1 U.S. BANK, N.A.  
6-26-14 [[15](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of U.S. Bank, N.A.'s ("USB") claim in this case secured by the second deed of trust on real property located at 8112 Legacy Court, Antelope, California ("Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$229,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Bank of America, N.A. with a balance of approximately \$232,000.00. Thus, the value of the collateral available to USB on its second deed of trust is \$0.00.

The court will issue a minute order.

44. [11-36244](#)-B-13 CLAUDE NEEDHAM MOTION TO APPROVE SHORT SALE  
JB-1 7-15-14 [[49](#)]

**Tentative Ruling:** The motion is continued to September 2, 2014, at 9:32 a.m. On or before August 5, 2014, the date of this hearing, the debtor shall serve the motion, its supporting papers and a notice of the continued hearing on Wells Fargo Bank. The debtor shall also mail notice (that complies with LBR 9014-1(d)(4)) of the motion and continued hearing to the chapter 13 trustee, all creditors and any non-creditor parties previously given notice of the motion. The notice of the continued hearing shall state that the motion is being heard under LBR 9014-1(f)(2), that written opposition to the motion is not required and that opposition may be presented at the hearing. The debtor shall file a proof of service of the foregoing on or before August 8, 2014.

The motion was not properly served and noticed. The motion and all supporting papers must be served on Wells Fargo Bank, the creditor that will receive less than the amount of its claim secured by the real property located at 165 Château Whistler Court, Las Vegas, Nevada (the "Property"). Notice of the motion must be given to the trustee and all creditors. Fed. R. Bankr. P. 2002(a)(2). The debtor's proof of service (Dkt. 53) shows that the debtor provided notice only to the chapter 13

trustee, the United States trustee and counsel for one creditor who requested special notice. The court continues the motion to allow the debtor to properly serve an notice the motion prior to the expiration of the short sale approval.

The court will issue a minute order.

45. [14-25644](#)-B-13 ANDY/LAIL MARTINEZ  
JPJ-1
- OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-9-14 [[25](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objection and motion to dismiss are dismissed.

The trustee's objection and motion to dismiss are moot. On July 9, 2014, the debtor filed an amended plan and motion to confirm. The amended plan supersedes the plan to which the trustee's objection is directed, and the motion to confirm provides the relief sought in the motion to dismiss.  
11 U.S.C. § 1323(b).

The court will issue a minute order.

46. [14-26446](#)-B-13 TODD/DENISE BEINGESSNER  
SJS-1
- MOTION TO VALUE COLLATERAL OF  
KEYBANK, N.A.  
6-30-14 [[10](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Keybank, N.A.'s claim in this case secured by the second deed of trust on real property located at 2850 Hillcrest Road, Rocklin, California (the "Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$434,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Ocwen Loan Servicing with a balance of approximately \$464,000.00. Thus, the value of the collateral available to Keybank, N.A. on its second deed of trust is \$0.00.

The court will issue a minute order.

47. [14-26446](#)-B-13 TODD/DENISE BEINGESSNER MOTION TO AVOID LIEN OF CALVARY  
SJS-2 PORTFOLIO SERVICES, LLC  
6-30-14 [[14](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted pursuant to 11 U.S.C. § 522(f)(1)(A), subject to the provisions of 11 U.S.C. § 349. The judicial lien in favor of Cavalry Portfolio Services, LLC, recorded in the official records of Placer County, Document No. 2012-0002478-00, is avoided as against the real property located at 2850 Hillcrest Road, Rocklin, California.

The subject real property has a value of \$434,000.00 as of the date of the petition. The unavoidable liens total \$497,788.00. The debtors claimed the property as exempt under California Code of Civil Procedure Section 703.140(b)(5), under which they exempted \$1000.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien. Therefore, the fixing of this judicial lien impairs the debtors' exemption of the real property and its fixing is avoided.

The court will issue a minute order.

48. [13-30947](#)-B-13 GRANT PARKISON OBJECTION TO CLAIM OF BANK OF  
JPJ-1 AMERICA, N.A., CLAIM NUMBER 7  
6-10-14 [[42](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim no. 7, filed on May 14, 2014, by Bank of America, N.A. in the amount of \$58,699.42 (the "Claim"), is disallowed except to the extent previously paid by the trustee.

The Claim was not timely filed. The last date to file a non-governmental claim was January 8, 2014. The Claim was filed on May 14, 2014.

The court will issue a minute order.



49. [14-26054](#)-B-13 RAYMOND MARCHANT  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-9-14 [[15](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

This matter is continued to September 2, 2014, at 9:32 a.m. to be heard after disposition of debtor's motions to value collateral of Springleaf Financial Services.

50. [13-27755](#)-B-13 JAMES/TAMARA HERZOG  
JTN-2

MOTION TO INCUR DEBT AND/OR  
MOTION TO APPROVE LOAN  
MODIFICATION  
6-23-14 [[46](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The debtors' motion for authority to incur new debt is granted on the terms set forth in the Home Affordable Modification Agreement submitted as Exhibit "A" to the motion (Dkt. 49, p.2-15) (the "Agreement").

Although the Agreement is not signed by Golden One, it is identical to the agreement which was the subject of the motion filed by Golden One on April 1, 2014 (Dkt. 36). Accordingly, the court finds that there is sufficient evidence of an actual agreement to make the matter ripe for adjudication.

The court will issue a minute order.

51. [14-24256](#)-B-13 RICKY/DONNA CUEVAS  
SJS-2

MOTION TO CONFIRM PLAN  
6-20-14 [[25](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the amended plan filed June 20, 2014 (Dkt. 29) will be confirmed.

The court will issue a minute order granting the motion to confirm. Counsel for the debtors shall submit an order confirming the plan using EDC form 3-081 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

**Tentative Ruling:** This matter is continued from July 22, 2014, at 9:32 a.m. to allow the debtors to supplement the record with an amended proof of service establishing that all creditors were served with the motion, notice of hearing, and supporting documents. On July 23, 2014, the debtors filed an amended proof of service (Dkt. 75), satisfying the foregoing requirement. The court now issues the following abbreviated tentative ruling.

The motion is dismissed without prejudice.

The motion is not ripe for adjudication, and therefore the court lacks jurisdiction over the matter. By this motion the debtors seek court authorization to enter into a permanent loan modification agreement with SunTrust Mortgage, Inc. ("SunTrust"). However, the debtors have failed to establish that there is an actual agreement for the court to approve because they have failed to provide evidence that SunTrust consents to such an agreement.

The absence of an actual agreement for the court to approve means that the court lacks jurisdiction over the matter because the motion lacks justiciability. The justiciability doctrine concerns "whether the plaintiff has made out a 'case or controversy' between himself and the defendant within the meaning of Art. III." Warth v. Seldin, 422 U.S. 490, 498, 95 S.Ct. 2197, 45 L.Ed.2d 343 (1975). Under Article III of the United States Constitution, federal courts only hold jurisdiction to decide cases and controversies. With no finalized, actual agreement to which SunTrust agrees, no case or controversy within the meaning of Article III exists.

Here, the court acknowledges the debtors' ex parte "application to advance hearing date" filed on July 24, 2014 (Dkt. 76) (the "Application"), in which the debtors sought to have the hearing on this motion moved from today's date to July 29, 2014, at 11:00 a.m. This request is denied for two reasons. First, the debtors neither cite nor analyze any authority in support of such a request. Second, even if the debtors did cite and analyze authority, the court would be unlikely to find good cause to grant such a request. The debtors state in the Application that SunTrust verbally informed them and their attorney that the loan modification agreement would be cancelled if it was not approved by the court by August 1, 2014. However, the debtors fail to recognize that the loan modification agreement was not approved by that date because they failed to file proof of proper service in support of the motion when it originally came on for hearing on July 22, 2014. That is the reason the motion was continued (at the request of counsel for the debtors) to a date past August 1, 2014. The debtors essentially created their own emergency by failing to comply with the procedural requirements of the Local Bankruptcy Rules and Federal Rules of Bankruptcy Procedure.

In light of the information provided in the Application, it appears that SunTrust no longer consents to the loan modification agreement. The loan

modification agreement was cancelled as of four days ago. Accordingly, the motion is dismissed without prejudice.

The court will issue a minute order.

53. [13-32457](#)-B-13 BETTY BOYD  
JPJ-1

OBJECTION TO CLAIM OF ALADDIN  
BAIL BONDS, CLAIM NUMBER 9  
6-10-14 [[45](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim no. 9, filed on February 28, 2014, by Two Jinn, Inc. dba Aladdin Bail Bonds in the amount of \$2,333.00 (the "Claim"), is disallowed except to the extent previously paid by the trustee.

The Claim was not timely filed. The last date to file a non-governmental claim was January 29, 2014. The Claim was filed on February 28, 2014.

The court will issue a minute order.

54. [14-26059](#)-B-13 FLORENTINO LOPEZ AND  
JPJ-1 CECILIA VILLEGAS

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-9-14 [[20](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The debtors' opposition is sustained. The trustee's objections are overruled. The motion to dismiss is denied. The plan filed June 6, 2014 (Dkt. 5) will be confirmed.

The trustee raises two independent objections under 11 U.S.C. § 521(a)(3). First, he states that he requested at the meeting of creditors held July 3, 2014, that the debtors file an amended petition to disclose that joint debtor Cecilia Villegas ("Mrs. Villegas") used the last name of "Fletes" within the past 8 years, and to date they have failed to comply. Second, he states that he requested at the meeting of creditors held July 3, 2014, that the debtors file an amended Statement of Financial Affairs ("SOFA") to disclose the details of the sale of a semi-truck which was conducted on June 4, 2014, and to date they have failed to comply. However, on July 31, 2014, the debtors file an amended petition and amended SOFA (Dkt. 27). The amended petition now lists a prior name for Mrs. Villegas of "Cecilia Fletes-Villegas." Furthermore, the amended SOFA now discloses at Item 10 that a 1996 Freightliner was sold to Ritchie Bros on June 4, 2014, for \$3,500.00. The court finds that the filing of these amended documents resolves the trustee's

objections. Accordingly, the trustee's objections are overruled.

The court will issue a minute order sustaining the debtors' opposition, overruling the trustee's objections, and denying the motion to dismiss. Counsel for the debtors shall submit an order confirming the plan using EDC form 3-081 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

55.	<a href="#">14-25562</a> -B-13 KEITH TIGERT JPJ-1	OBJECTION TO CONFIRMATION OF PLAN BY JAN P. JOHNSON AND/OR MOTION TO DISMISS CASE 7-9-14 [ <a href="#">21</a> ]
-----	--	--

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objections and motion to dismiss are dismissed.

The trustee's objections and motion to dismiss are moot. The debtor filed an amended plan (Dkt. 20) on July 7, 2014, and a motion to confirm it on July 27, 2014 (Dkt. 28), setting the matter for hearing on September 16, 2014, at 9:32 a.m. The amended plan supersedes the plan to which the trustee's objection is directed, and the motion to confirm provides the relief sought in the motion to dismiss. 11 U.S.C. § 1323(b).

The court will issue a minute order.

56.	<a href="#">12-30764</a> -B-13 GARY/LAVONNE HAYWORTH SDB-4	CONTINUED MOTION TO SELL 6-26-14 [ <a href="#">49</a> ]
-----	---	--

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

57.	<a href="#">14-21464</a> -B-13 WILLIAM MCDANIELS JR. RJ-2	CONTINUED MOTION TO CONFIRM PLAN 6-10-14 [ <a href="#">36</a> ]
-----	--	---

**Tentative Ruling:** This matter is continued from July 22, 2014, at 9:32 a.m. to allow the debtor to supplement the record with an explanation as to how he can afford the step payment proposed by the plan in Month 37 from \$750.00 to \$1,400.00. 11 U.S.C. § 1325(a)(6). The court has reviewed the supplemental declaration filed by the debtor on July 28, 2014 (Dkt. 47), and finds his explanation satisfactory. The court now issues the following abbreviated tentative ruling.

The trustee's first objection that the debtor is delinquent in the amount of \$1,200.00, or 1.6 plan payments, is overruled. The trustee's second objection under 11 U.S.C. § 1325(b)(4) is sustained. The motion to confirm the amended plan filed June 10, 2014 (Dkt. 38) is denied.

The trustee's first objection is overruled because the trustee acknowledged at the hearing on July 22, 2014, that the debtor came current on plan payments on July 7, 2014.

The trustee's second objection is sustained. As the trustee points out in his opposition, sections 1.01 and 6.01 of the plan state that the applicable commitment period is only thirty-six months, whereas section 1.03 states that the duration of payments is sixty months. According to Item 15 of the debtor's Form 22C filed February 18, 2014 (Dkt. 1, p.42), the debtor's annualized current monthly income is \$162,000.00. According to Item 16, the debtor's household size is seven. The applicable median family income for a family of seven in California is \$99,667.00. Accordingly, the debtor is an above median debtor. In the presence of a trustee objection, an applicable commitment period of less than sixty months violates 11 U.S.C. § 1325(b)(4). In re Flores, 735 F.3d 855 (9th Cir. 2013). Accordingly, the trustee's second objection is sustained.

The court will issue a minute order.

58.	<a href="#">14-21464</a> -B-13 WILLIAM MCDANIELS JR. RJ-2	CONTINUED COUNTER MOTION TO DISMISS CASE 6-30-14 [ <a href="#">42</a> ]
-----	--	---

**Tentative Ruling:** The trustee's countermotion (Dkt. 42) is filed under LBR 9014-1(f)(1)(B). The court issues the following abbreviated tentative ruling.

The countermotion is conditionally denied, the conditions being that on or before August 19, 2014, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

59.	<a href="#">14-23765</a> -B-13 JOAQUIN MOQUETTE JMC-2	MOTION TO CONFIRM PLAN 6-10-14 [ <a href="#">36</a> ]
-----	--	--

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the plan filed May 9, 2014 (Dkt. 25) will be confirmed.

The court will issue a minute order granting the motion to confirm. Counsel for the debtor shall submit an order confirming the plan using

EDC form 3-081 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

60. [14-26065](#)-B-13 WILLIAM MARTIN AND  
JPJ-1 MELANIE LAIRD-MARTIN  
OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-9-14 [[18](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's first two objections under 11 U.S.C. § 521(a)(3) are overruled. The trustee's remaining objections are sustained for the reasons set forth therein. Confirmation of the plan filed June 6, 2014 (Dkt. 5) is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before August 19, 2014, the debtors file a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The trustee asserts in his first two objections that he requested at the Section 341 meeting of creditors held July 3, 2014, that the debtors file an amended petition disclosing (1) all other names previously used by the joint debtor in the past eight years, and (2) information on a worker's compensation lawsuit which the debtors were actively pursuing. On July 16, 2014, the debtors filed an amended petition as well as amended Schedules B and C (Dkt. 23). Although it still states "None" in the box labeled "All Other Names used by the Joint Debtor in the last 8 years," the amended petition now lists the joint debtor's full name of "Melanie Rae Laird-Martin" (as opposed to simply "Melanie Rae Martin" as stated on the original petition (Dkt. 1)). Furthermore, the debtors now disclose at Item 21 of amended Schedule B the worker's compensation claim with a value of \$20,000.00, which has been claimed as fully exempt on amended Schedule C. The court finds that the filing of these amended documents satisfies the trustee's objections under 11 U.S.C. § 521(a)(3). Accordingly, the trustee's first two objections are overruled.

The court will issue a minute order.

61. [13-34066](#)-B-13 MARK/ALLISON ROCKENBACH  
RAC-1 MOTION TO MODIFY PLAN  
6-23-14 [[19](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed June 23, 2014 (Dkt.

22) is confirmed.

The court will issue a minute order.

62. [14-25266](#)-B-13 GEORGE AGUILAR  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-7-14 [[23](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections and motion to dismiss are dismissed.

The trustee's objections and motion to dismiss are moot. By order entered July 23, 2014 (Dkt. 28), the bankruptcy case was dismissed.

The court will issue a minute order.

63. [12-36168](#)-B-13 BRIAN/NANCY OKAMOTO  
WW-6

MOTION TO MODIFY PLAN  
6-26-14 [[106](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed June 26, 2014 (Dkt. 110) is confirmed.

The court will issue a minute order.

64. [14-26170](#)-B-13 JIMMY SIMS  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-15-14 [[15](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are sustained. Confirmation of the plan filed June 11, 2014 (Dkt. 5) is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before August 19, 2014, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan

and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

65. [14-24771](#)-B-13 MONICA DAUBS  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-15-14 [[31](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are sustained. Confirmation of the plan filed May 19, 2014 (Dkt. 11) is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before August 19, 2014, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

66. [14-24771](#)-B-13 MONICA DAUBS  
PJR-2

OBJECTION TO CONFIRMATION OF  
PLAN BY TRI COUNTIES BANK  
7-17-14 [[35](#)]

**Tentative Ruling:** Creditor Tri Counties Bank ("TCB")'s objections are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

TCB's objections are sustained. Confirmation of the plan filed May 19, 2014 (Dkt. 11) is denied.

The court will issue a minute order.



67. [11-24173](#)-B-13 ROSEMARY ARCHIE  
JPJ-1

OBJECTION TO CLAIM OF ACS  
EDUCATION SERVICES/XEROX  
EDUCATION SERVICES, CLAIM  
NUMBER 26  
6-10-14 [[52](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim no. 26, filed on April 4, 2014, by Xerox Education Services, LLC dba ACS Education Services in the amount of \$17,395.98 (the "Claim"), is disallowed except to the extent previously paid by the trustee.

The Claim was not timely filed. The last date to file a non-governmental claim was June 29, 2011. The Claim was filed on April 4, 2014.

The court will issue a minute order.

68. [13-20173](#)-B-13 MALAYKONE SAKULSINGHDUSIT  
JPJ--1

CONTINUED MOTION TO MODIFY PLAN  
5-29-14 [[22](#)]

**Tentative Ruling:** The debtor's opposition is overruled. The motion is granted, and the modified plan filed May 29, 2014 (Dkt. 26) is confirmed.

The court will issue a minute order.

69. [14-26074](#)-B-13 MICHAEL LOZANO  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-14-14 [[20](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objections are sustained. Confirmation of the plan filed June 6, 2014 (Dkt. 5) is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before August 19, 2014, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

70. [14-25175](#)-B-13 JOHNNIE/KIMBERLY RHYNES CONTINUED OBJECTION TO  
JPJ-1 CONFIRMATION OF PLAN BY JAN P.  
JOHNSON AND/OR MOTION TO  
DISMISS CASE  
6-25-14 [[31](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objection is overruled. The motion to dismiss is denied. The plan filed May 16, 2014 (Dkt. 5) will be confirmed.

The sole objection raised by the trustee is that the feasibility of the plan depends on the granting of a motion to avoid the lien held by KelKris Associates, Inc. However, that motion was resolved elsewhere on today's calendar in a manner consistent with the plan's proposed treatment of that claim. Accordingly, the trustee's objection is overruled.

The court will issue a minute order overruling the trustee's objection and denying the motion to dismiss. Counsel for the debtors shall submit an order confirming the plan using EDC form 3-081 (Rev. 5/1/12) that conforms to the court's ruling and which has been approved by the trustee. The title of the order shall include a specific reference to the filing date of the amended plan.

71. [14-25175](#)-B-13 JOHNNIE/KIMBERLY RHYNES MOTION TO AVOID LIEN OF KELKRIS  
SNM-3 ASSOCIATES, INC.  
6-27-14 [[36](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted pursuant to 11 U.S.C. § 522(f)(1)(A), subject to the provisions of 11 U.S.C. § 349. The judicial lien in favor of KelKris Associates, Inc., recorded in the official records of Solano County, Document No. 201100106248, is avoided as against the real property located at 2014 Crawford Court, Fairfield, CA 94533.

The subject real property has a value of \$224,000.00 as of the date of the petition. The unavoidable liens total \$422,423.00. The debtors claimed the property as exempt under California Code of Civil Procedure Section 703.140(b)(1), under which they exempted \$1.00. The respondent holds a judicial lien created by the recordation of an abstract of judgment in the chain of title of the subject real property. After application of the arithmetical formula required by 11 U.S.C. § 522(f)(2)(A), there is no equity to support the judicial lien.

Therefore, the fixing of this judicial lien impairs the debtors' exemption of the real property and its fixing is avoided.

The court will issue a minute order.

72. [11-35277](#)-B-13 WALTER BOYD  
MC-3

MOTION TO MODIFY PLAN  
6-27-14 [[61](#)]

**Tentative Ruling:** The trustee's opposition is overruled. The motion is granted, and the modified plan filed June 27, 2014 (Dkt. 65) is confirmed with the following modification: Section 6.01 of the Additional Provisions is modified to state that "As of June 2014, the debtor has paid a total of \$9,306.00 into the plan. Beginning July 2014, the plan payments shall be \$282.00 per month for 3 months. The commitment period is extended from 36 months to 39 months."

The court will issue a minute order.

73. [14-25477](#)-B-13 TERRI BANKS  
JPJ-1

CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY JAN P.  
JOHNSON AND/OR MOTION TO  
DISMISS CASE  
6-30-14 [[16](#)]

**Tentative Ruling:** The trustee's objections and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's first two objections are overruled. The trustee's third objection that the feasibility of the plan depends on the granting of a motion to value collateral of JPMorgan Chase Bank, N.A. ("Chase") is sustained. Confirmation of the plan filed May 23, 2014 (Dkt. 5) is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before August 19, 2014, the debtor files a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serves the new plan and the motion(s), and sets the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The trustee stated at the hearing on July 22, 2014, at 9:32 a.m. that the debtor had cured the delinquency in plan payments. Accordingly, the trustee's first objection has been resolved and is therefore overruled.

The first meeting of creditors held on June 26, 2014, was continued to July 10, 2014. The debtor appeared at the continued meeting of creditors, and the meeting was concluded as to the debtor on that date. Accordingly, the trustee's second objection has been resolved and is therefore overruled.

Regarding the trustee's objection that the plan's feasibility depends on the granting of a motion to value collateral of Chase, that matter was heard elsewhere on today's calendar and denied without prejudice on procedural grounds. Accordingly, the trustee's objection on this point is sustained.

The court will issue a minute order.

74. [14-25477](#)-B-13 TERRI BANKS MOTION TO VALUE COLLATERAL OF  
PLC-1 JPMORGAN CHASE BANK, N.A.  
7-10-14 [[20](#)]

**Tentative Ruling:** The motion is denied without prejudice.

The motion was not properly noticed. Pursuant to Local Bankruptcy Rule 9014-1(f)(2), "when fewer than twenty-eight (28) days' notice of a hearing is given, no party-in-interest shall be required to file written opposition to the motion. Opposition, if any, shall be presented at the hearing on the motion. If opposition is presented, or if there is other good cause, the Court may continue the hearing to permit the filing of evidence and briefs." LBR 9014-1(f)(2)(C). Here, the motion was filed and served on July 10, 2014, or twenty-six (26) days prior to today's hearing date. However, the notice of hearing (Dkt. 21) instructs parties that written opposition to the motion was due at least fourteen (14) days prior to the hearing date. This would have given interested parties no more than twelve (12) days' notice to file an opposition to this motion. Accordingly, the motion is denied without prejudice.

The court will issue a minute order.

75. [13-20379](#)-B-13 ANTONIO MONTES CONTINUED MOTION TO MODIFY PLAN  
JPJ-1 6-2-14 [[45](#)]

**Tentative Ruling:** This matter is continued from July 8, 2014, at 9:32 a.m. to allow the debtor time to research the law on the issue of a trustee's motion to modify a chapter 13 plan. The court ordered a briefing schedule, with a supplemental response to be filed by the debtor on or before July 22, 2014, and a supplemental reply, if any, to be filed by the trustee on or before July 29, 2014. The debtor has failed to file a timely supplemental response to the motion. The court now issues the following abbreviated tentative ruling.

The debtor's opposition is overruled. The motion is denied without prejudice.

The debtor's Form 22C (Dkt. 1, pp. 37-44) appears to be improperly completed. It shows the debtor is above median (Line 21-22) with current monthly income (Line 20) of \$5,287.00 and total allowed deductions (Line 56) of \$5,207.00. Monthly disposable income (Line 59) should be \$80.00, not "N/A." The debtor is presumed to be required to devote \$4,800.00 to general unsecured creditors. The debtor's confirmed plan (Dkt. 5, p.4) devotes \$111,900.00 to the plan, and \$4,478.50 to general unsecured

The court will issue a minute order.

OBJECTION TO CLAIM OF U.S.  
BANK, N.A., CLAIM NUMBER 6  
6-10-14 [[27](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim no. 6, filed on May 19, 2014, by U.S. Bank, N.A. in the amount of \$277,080.93 (the "Claim"), as well as the amendment thereto filed July 15, 2014, are disallowed except to the extent previously paid by the trustee.

The Claim was not timely filed. The last date to file a non-governmental claim was November 20, 2013. The Claim was filed on May 19, 2014, and amended on July 15, 2014.

The court will issue a minute order.

MOTION FOR COMPENSATION FOR  
SCOTT D. HUGHES, DEBTORS'  
ATTORNEY  
7-7-14 [[39](#)]

**Tentative Ruling:** The motion is denied without prejudice.

By this motion, applicant Scott Hughes, counsel for the debtors ("Counsel"), seeks additional compensation in the amount of \$1,000.00 in fees and \$11.58 in expenses for a total additional award of \$1,011.58. The motion is denied without prejudice because the application fails to demonstrate "substantial and unanticipated post-confirmation work" that exceeds what would be required in a "typical" chapter 13 case so as to justify additional compensation under Local Bankruptcy Rule 2016-1(c)(3). In re Pedersen, 229 B.R. 445 (Bankr. E.D. Cal. 1999) (J. McManus).

On July 18, 2013, the debtors commenced the above-captioned case by filing a voluntary petition under chapter 13 (Dkt. 1). As part of confirmation of the debtors' chapter 13 plan, Counsel consented to compensation in accordance with the Guidelines. In connection with confirmation of the debtors' chapter 13 plan, this court authorized attorney's fees in the amount of \$4,000.00, \$999.00 of which was paid prior to the filing of the petition and \$3,001.00 of which would be paid by the trustee under the terms of the confirmed plan (Dkt. 15).

The court finds that the application fails to justify an award of

additional fees and costs in this case. Among the tasks Counsel sets forth in his supporting declaration (Dkt. 41) and Memorandum of Points and Authorities (Dkt. 43) which he believes justifies additional fees include the following: (1) modifying the plan after confirmation and getting it approved against the trustee's opposition; (2) reviewing the Notice of Filed Claims and the Annual Summary with the debtors; (3) filing and serving a motion to modify; (4) phones calls, letters, meetings, and preparing for and serving the fee application; (5) communicating with the debtors regarding their rights and responsibilities with their creditors, the Franchise Tax Board, the United States Trustee and the Chapter 13 Trustee; (6) preparing the petition, schedules, and statements; (7) attending the meeting of creditors; and (8) working with the objecting trustee regarding the treatment of the second mortgage in the modified plan. The court finds that the foregoing does not satisfy the standard for additional compensation in a chapter 13 case.

Counsel appears simply to multiply his hours (20.0) by his hourly rate (\$250.00), deduct the "no look" fee and apply for the excess. This approach treats the "no look" fee as a minimum fee. Counsel is reminded that "no look" compensation under Local Bankruptcy Rule 2016-1(c) is neither a minimum fee nor a down payment on hourly compensation. The "no look" fee, whatever Counsel agrees it will be (up to the maximum) covers all work required in a typical chapter 13 case. Counsel's fee application appears to reflect a misunderstanding of the "no look" fee.

Should Counsel re-apply, the application should contain an analysis of the specific services rendered (and the related time entries) which constitute "substantial and unanticipated post-confirmation work" that exceeds what would be required in a "typical" chapter 13 case so as to justify additional compensation under Local Bankruptcy Rule 2016-1(c) (3). The court is not required to comb through the billing statements and the docket to identify those services for the applicant.

The court will issue a minute order.

78. [09-43281](#)-B-13 FLOYD/KRISTIN SMYTHE  
WW-7

MOTION TO SELL  
7-2-14 [[94](#)]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The motion is dismissed without prejudice.

The motion is not ripe for adjudication, and therefore the court lacks jurisdiction over the matter. By this motion the debtors seek court authorization to sell a 2006 Pontiac G6 (the "Pontiac") and a 2009 Nissan Titan (the "Titan"). However, the debtors have failed to establish the existence of an agreement to sell either vehicle or that an actual sale will occur should the court grant the motion.

The absence of an actual sale for the court to approve means that the court lacks jurisdiction over the matter because the motion lacks justiciability. The justiciability doctrine concerns "whether the

plaintiff has made out a 'case or controversy' between himself and the defendant within the meaning of Art. III." Warth v. Seldin, 422 U.S. 490, 498, 95 S.Ct. 2197, 45 L.Ed.2d 343 (1975). Under Article III of the United States Constitution, federal courts only hold jurisdiction to decide cases and controversies. With no actual sale agreement for the court to approve, no case or controversy within the meaning of Article III exists.

Here, the debtors provide no evidence that they have a final sale agreement in place with a specific buyer as it pertains to either vehicle. Regarding the Pontiac, the debtors merely state in the motion and supporting declaration that they believe that can get \$8,000.00 at most for it. There is no evidence of a sale agreement in place for this (or any other) amount. The court will not simply pre-approve a sale of the vehicle at a hypothetical price which the debtors hope to obtain. The debtors must provide the court with a finalized sale agreement specifying the exact sale terms to which both the buyer(s) and debtors agree. Similarly, while the court acknowledges the CarMax Appraisal Offer for the Titan attached as Exhibit "A" to the motion (Dkt. 96, p.2), this does not constitute a finalized, actual sale agreement which the court can approve. Even if the court were to accept the appraisal offer as an actual offer by CarMax to purchase the Titan (as opposed to merely a price quote), the offer is no longer valid. According to the evidence provided, the \$14,000.00 appraisal offer expired at the close of business on March 9, 2014. The appraisal offer clearly states that CarMax will only honor the offer for seven days, after which time the debtors would need to obtain a reappraisal. Accordingly, the motion is not ripe for adjudication and is dismissed without prejudice.

The court will issue a minute order.

79. [11-29281](#)-B-13 ROBERT/SHIRLEY GREEN  
SDB-5

MOTION TO MODIFY PLAN  
6-25-14 [[69](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted, and the modified plan filed June 25, 2014 (Dkt. 74) is confirmed.

The court notes that, as set forth in the motion and supporting declaration, the debtors are reducing their monthly plan payment from \$612.00 to \$457.00 in order to account for a \$155.00 expense for the purchase of vehicle to replace their nonoperational 2006 Chrysler. This order confirming plan does not constitute court approval of the purchase of the replacement vehicle. Such a request would require the debtors to file a motion to incur new debt which complies with all relevant sections of the Bankruptcy Code, Local Bankruptcy Rules, and Federal Rules of Bankruptcy Procedure.

The court will issue a minute order.

80. [14-27181](#)-B-13 DONALD TAGGART  
FF-1

MOTION TO EXTEND AUTOMATIC STAY  
7-17-14 [[10](#)]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

81. [13-25485](#)-B-13 ALFRED AGUILAR AND EILEEN  
JPJ-1 GAHUB

OBJECTION TO CLAIM OF OCWEN  
LOAN SERVICING, LLC, CLAIM  
NUMBER 9  
6-10-14 [[31](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim no. 9, filed on May 14, 2014, by Ocwen Loan Servicing, LLC in the amount of \$423,760.70 (the "Claim"), as well as the amendment thereto filed on June 3, 2014, is disallowed except to the extent previously paid by the trustee.

The Claim was not timely filed. The last date to file a non-governmental claim was August 28, 2013. The Claim was filed on May 14, 2014, and amended on June 3, 2014.

The court will issue a minute order.

82. [13-32286](#)-B-13 MARCOS SMITH  
JPJ-3

OBJECTION TO CLAIM OF GOLDEN  
ONE CREDIT UNION, CLAIM NUMBER  
8  
6-10-14 [[62](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim no. 8, filed on January 30, 2014, by Golden One Credit Union in the amount of \$3,350.10 (the "Claim"), is disallowed except to the extent previously paid by the trustee.

The Claim was not timely filed. The last date to file a non-governmental claim was January 22, 2014. The Claim was filed on January 30, 2014.

The court will issue a minute order.



83. [13-32286](#)-B-13 MARCOS SMITH  
JPJ-4

OBJECTION TO CLAIM OF GOLDEN  
ONE CREDIT UNION, CLAIM NUMBER  
7  
6-10-14 [[66](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim no. 7, filed on January 30, 2014, by Golden One Credit Union in the amount of \$3,163.95 (the "Claim"), is disallowed except to the extent previously paid by the trustee.

The Claim was not timely filed. The last date to file a non-governmental claim was January 22, 2014. The Claim was filed on January 30, 2014.

The court will issue a minute order.

84. [14-25888](#)-B-13 KEVIN WILLIAMS  
JAJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY SUTTER COUNTY  
DEPARTMENT OF CHILD SUPPORT  
SERVICES  
6-27-14 [[17](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

Creditor Sutter County Department of Child Support Services (the "Creditor") objections are dismissed.

The Creditor's objections are moot. On July 9, 2014, the debtor filed an amended plan (Dkt. 30) and a motion to confirm it (Dkt. 28), setting the matter for hearing on August 19, 2014, at 9:32 a.m. The amended plan supersedes the plan to which the Creditor's objections are directed. 11 U.S.C. § 1323(b).

The court will issue a minute order.

85. [14-25888](#)-B-13 KEVIN WILLIAMS  
JPJ-1

OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-9-14 [[23](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The trustee's objections and motion to dismiss are dismissed.

The trustee's objections and motion to dismiss are moot. On July 9,

2014, the debtor filed an amended plan (Dkt. 30) and a motion to confirm it (Dkt. 28), setting the matter for hearing on August 19, 2014, at 9:32 a.m. The amended plan supersedes the plan to which the trustee's objections are directed, and the motion to confirm provides the relief sought in the motion to dismiss. 11 U.S.C. § 1323(b).

The court will issue a minute order.

86. [14-25888](#)-B-13 KEVIN WILLIAMS  
MJ-1  
OBJECTION TO CONFIRMATION OF  
PLAN BY LAKEVIEW LOAN  
SERVICING, LLC  
7-10-14 [[38](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

Creditor Lakeview Loan Servicing, LLC (the "Creditor")'s objections are dismissed.

The Creditor's objections are moot. On July 9, 2014, the debtor filed an amended plan (Dkt. 30) and a motion to confirm it (Dkt. 28), setting the matter for hearing on August 19, 2014, at 9:32 a.m. The amended plan supersedes the plan to which the Creditor's objections are directed. 11 U.S.C. § 1323(b).

The court will issue a minute order.

87. [14-22553](#)-B-13 JEFFREY HAMILTON  
HLC-1  
CONTINUED OBJECTION TO  
CONFIRMATION OF PLAN BY ROCKY  
GENTNER AND DEBORAH GENTNER  
5-15-14 [[30](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

This matter is continued to August 19, 2014, at 9:32 a.m. to be heard after disposition of Debtor's Motion to Value Collateral of Rocky Gentner and Deborah Gentner, the balance of which was continued to August 19, 2014, at 9:32 a.m. following the conclusion of the evidentiary hearing held on August 4, 2014, at 2:00 p.m.

88. [14-25292](#)-B-13 JAVIER QUIROZ AND YESENIA MOTION TO VALUE COLLATERAL OF  
PGM-1 GUZMAN-QUIROZ OWNIT MORTGAGE SOLUTIONS,  
INC./SPECIALIZED LOAN  
SERVICING, LLC  
6-26-14 [[15](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The motion to value collateral pursuant to Fed. R. Bankr. P. 3012 and 11 U.S.C. § 506(a), is granted. \$0.00 of Ownit Mortgage Solutions, Inc./Specialized Loan Servicing, LLC (the "Creditor")'s claim secured by the second deed of trust on real property located at 2870 County Road 88C, Dunnigan, CA 95937 (the "Property") is a secured claim, and the balance of its claim is an unsecured claim.

In the absence of opposition, for the purposes of this motion, the Property had a value of \$250,000.00 on the date of the petition. The Property is encumbered by a first deed of trust held by Ocwen Loan Servicing, LLC with a balance of approximately \$254,311.72. Thus, the value of the collateral available to the Creditor on its second deed of trust is \$0.00.

The court will issue a minute order.

89. [13-33793](#)-B-13 CHRIS/ADELE JOHNSON MOTION TO MODIFY PLAN  
HLG-4 6-17-14 [[63](#)]

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The motion is removed from the calendar as it is a duplicate of the motion (DCN HLG-4) which is the subject of the next matter on this calendar.

90. [13-33793](#)-B-13 CHRIS/ADELE JOHNSON MOTION TO MODIFY PLAN  
HLG-4 6-17-14 [[70](#)]

**Tentative Ruling:** The trustee's opposition is overruled. The motion is granted, and the modified plan filed June 17, 2014 (Dkt. 62) is confirmed with the following modification: the Additional Provisions for Section 1.01 are modified to state that "A total of \$10,606.57 has been paid to the trustee through June 25, 2014. Commencing July 25, 2014, monthly plan payments shall be \$95.00 for the remainder of the 36 month plan."

The court will issue a minute order.

91. [11-45594](#)-B-13 DAVID TOWEY AND LOUISE  
JPJ-2 LOFTON  
OBJECTION TO CLAIM OF DEPT OF  
EDUCATION C/O SALLIE MAE, CLAIM  
NUMBER 68  
6-10-14 [[81](#)]

CASE DISMISSED 6/30/14

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The objection is dismissed.

The objection is moot. By order entered June 30, 2014 (Dkt. 89), the bankruptcy case was dismissed.

The court will issue a minute order.

92. [14-25694](#)-B-13 SHELLY SCHNEIDER  
JPJ-1  
OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-9-14 [[14](#)]

WITHDRAWN BY M.P.

**Disposition Without Oral Argument:** Oral argument will not aid the court in rendering a decision on this matter.

The objection and motion to dismiss are removed from the calendar. The trustee withdrew the objection and motion to dismiss on July 15, 2014 (Dkt. 19).

93. [13-31095](#)-B-13 GEOFFREY GREITZER  
JPJ-2  
OBJECTION TO CLAIM OF RABOBANK,  
N.A., CLAIM NUMBER 8  
6-10-14 [[121](#)]

**Disposition Without Oral Argument:** This motion is unopposed. The court issues the following abbreviated ruling.

The trustee's objection is sustained, and claim no. 8, filed on April 25, 2014, by Rabobank, N.A. in the amount of \$30,786.00 (the "Claim"), is disallowed except to the extent previously paid by the trustee.

The Claim was not timely filed. The last date to file a non-governmental claim was January 8, 2014. The Claim was filed on April 25, 2014.

The court will issue a minute order.

94. [14-23396](#)-B-13 JOSEPH/ARDELYN FLORES  
SJS-1

MOTION TO CONFIRM PLAN  
6-18-14 [[18](#)]

**Tentative Ruling:** The motion to confirm the amended plan filed June 18, 2014 (Dkt. 19) is denied.

Although no party in interest has opposed the motion, the court has an independent duty to confirm only plans that comply with the requirements of the Bankruptcy Code. See United Student Aid Funds, Inc. v. Espinosa, 559 U.S. 260, 278 (2010) ("Failure to comply with this [§§ 1328(a)(2) and 523(a)(8)] self-executing requirement should prevent confirmation of the plan even if the creditor fails to object, or to appear in the proceeding at all."); see also In re Dynamic Brokers, Inc., 293 B.R. 489, 499 (B.A.P. 9th Cir. 2003) (citing Everett v. Perez, 30 F.3d 1209, 1213 (9th Cir. 1994)).

The debtors have not carried their burden of establishing all of the plan confirmation requirements of 11 U.S.C. § 1325(a). Chinichian v. Campolongo, 784 F.2d 1440, 1443-1444, (9th Cir.1986) ("For a court to confirm a plan, each of the requirements of section 1325 must be present and the debtor has the burden of proving that each element has been met."). Elsewhere on today's calendar, the court heard the debtors' objection to the claim of Wells Fargo Bank, N.A. ("WFB"), which has been resolved by court-approved stipulation. Pursuant to the terms of the stipulation, the debtors have agreed to (1) a pre-petition arrearage of \$140.69 to be paid over the life of the plan; and (2) to have WFB apply one post-petition payment to the pre-petition payment due for April 2014. The instant motion is denied because the proposed plan does not provide for the provision of the approved stipulation calling for a direct payment of one pre-petition mortgage instalment payment.

The court will issue a minute order.

95. [14-23396](#)-B-13 JOSEPH/ARDELYN FLORES  
SJS-2

OBJECTION TO CLAIM OF WELLS  
FARGO BANK, N.A., CLAIM NUMBER  
4  
6-18-14 [[24](#)]

**Tentative Ruling:** The stipulation filed July 28, 2014 (Dkt. 29) (the "Stipulation") is approved and binding between the parties thereto. Pursuant to the terms of the Stipulation, the debtors' objection to Wells Fargo Bank, N.A. ("WFB")'s claim, claim number 4, is deemed withdrawn and is therefore removed from calendar.

The Stipulation is approved as an agreement for plan treatment of WFB's claim, not as a stand alone plan modification or court authorization to make a post-petition payment on a pre-filing debt.

The court will issue a minute order.

96. [14-26097](#)-B-13 SHADI RAM AND DALVIR KAUR  
JPJ-1  
OBJECTION TO CONFIRMATION OF  
PLAN BY JAN P. JOHNSON AND/OR  
MOTION TO DISMISS CASE  
7-14-14 [[14](#)]

**Tentative Ruling:** The trustee's objection and motion to dismiss are governed by the procedures of LBR 9014-1(f)(2). Opposition may be presented at the hearing. Subject to such opposition, the court issues the following abbreviated tentative ruling.

The trustee's objection is sustained. Confirmation of the plan filed June 9, 2014 (Dkt. 5) is denied. The trustee's motion to dismiss is conditionally denied, the conditions being that on or before August 19, 2014, the debtors file a new plan, a motion to confirm the new plan and all necessary related motions, including without limitation motions to value collateral and motions to avoid liens, properly serve the new plan and the motion(s), and set the motion(s) for hearing on the next available chapter 13 calendar that provides proper notice for all of the motions to be heard on the same calendar.

The court will issue a minute order.

97. [14-27099](#)-B-13 JOHN/CYNTHIA MOORE  
RI-1  
MOTION TO EXTEND AUTOMATIC STAY  
7-9-14 [[10](#)]

**Tentative Ruling:** This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.