

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Sacramento, California

August 15, 2017 at 10:00 a.m.

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INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

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

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

2. The court will not continue any short cause evidentiary hearings scheduled below.
3. If a matter is denied or overruled without prejudice, the moving party may file a new motion or objection to claim with a new docket control number. The moving party may not simply re-notice the original motion.
4. If no disposition is set forth below, the matter will be heard as scheduled.

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- |    |                                |                |                                |
|----|--------------------------------|----------------|--------------------------------|
| 1. | <a href="#">17-22910</a> -D-13 | MURIAH KENDALL | MOTION TO CONFIRM PLAN         |
|    | SLE-3                          |                | 6-24-17 [ <a href="#">34</a> ] |

Final ruling:

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied because the service list attached to the proof of service is from a different case and the moving party failed to serve the creditors in this case, as required by Fed. R. Bankr. P. 2002(b). The motion will be denied by minute order. No appearance is necessary.

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|----|--------------------------------|-----------------|---------------------------------|
| 2. | <a href="#">10-20012</a> -D-13 | SHIRLEY THURMAN | MOTION TO AVOID LIEN OF         |
|    | JCK-3                          |                 | BENEFICIAL CALIFORNIA, INC.     |
|    |                                |                 | 7-20-17 [ <a href="#">124</a> ] |

3. [17-20912](#)-D-13 MOHAMMED SHOOSHTARI MOTION TO CONFIRM PLAN  
JAD-1 6-20-17 [[52](#)]

**Final ruling:**

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons: (1) the moving party failed to serve Brookside Lake Community Association and Brookside Master Association, added to the debtor's Schedule D by amendment filed July 21, 2017; and (2) the moving party failed to serve the co-debtor listed on Schedule H. Minimal research into the case law concerning § 101(5) and (10) of the Bankruptcy Code discloses an extremely broad interpretation of "creditor," certainly one that includes parties who are co-debtors on obligations of the debtor. In addition, the debtor has failed to comply with Fed. R. Bankr. P. 1007(a)(1), which requires debtors to include on their master address list all parties included or to be included on their schedules, including Schedule H.

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

4. [17-21512](#)-D-13 MARIANNE DANIA MOTION TO CONFIRM PLAN  
MJD-2 6-23-17 [[33](#)]

**Final ruling:**

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

5. [09-27513](#)-D-13 THOMAS GRUDEM AND ERIN CONTINUED MOTION TO AVOID LIEN  
RAI-4 HICKEY-GRUDEM OF SELECT PORTFOLIO SERVICING,  
INC. AND/OR MOTION FOR CONTEMPT  
5-12-17 [[89](#)]

**Final ruling:**

Motion withdrawn by moving party. Matter removed from calendar.

6. [16-28416](#)-D-13 CONSTANCE WHITLOCK MOTION TO CONFIRM PLAN  
PGM-3 6-27-17 [[56](#)]

7.     [16-26221](#)-D-13     GREGORY GROSS AND RETTA     MOTION TO SUBSTITUTE GREGORY L.  
JCK-3                   GIRLEY-GROSS           GROSS AS THE REPRESENTATIVE FOR  
RETТА GIRLEY-GROSS AND/OR  
MOTION TO EXCUSE DEBTOR FROM  
COMPLETING 11 U.S.C. 1328  
CERTIFICATE OR CERTIFICATE OF  
CHAPTER 13 DEBTOR RE: 11 U.S.C.  
522 (Q) EXEMPTIONS  
7-19-17 [[43](#)]

**Tentative ruling:**

This is the debtor's notice of the death of the joint debtor and motion to be appointed as the sole representative of the joint debtor and to waive the §§ 522(q) and 1328 certificate requirements for the joint debtor. The court is not prepared to consider the motion because the moving party served only the chapter 13 trustee and the United States Trustee, whereas the moving party was also required to serve all other parties in interest. LBR 1016-1(a). Upon request, the court will continue the hearing to allow the moving party to file a notice of continued hearing and serve it, together with the motion and supporting documents, on all creditors.

The court will hear the matter.

8.     [17-24626](#)-D-13     VICTOR/GLORIA LUERA     MOTION TO VALUE COLLATERAL OF  
MKM-1   VERIPRO SOLUTIONS  
7-17-17 [[10](#)]

**Final ruling:**

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Veripro Solutions at \$0.00, pursuant to § 506(a) of the Bankruptcy Code. The creditor's claim is secured by a junior deed of trust on the debtors' residence and the amount owed on the senior encumbrance exceeds the value of the real property. No timely opposition has been filed and the relief requested in the motion is supported by the record. As such, the court will grant the motion and set the amount of Veripro Solutions's secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

9. [17-24626](#)-D-13 VICTOR/GLORIA LUERA  
MKM-2

MOTION TO VALUE COLLATERAL OF  
DILBAG HOTHİ  
7-17-17 [[14](#)]

**Final ruling:**

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Dilbag Hothi at \$0.00, pursuant to § 506(a) of the Bankruptcy Code. The creditor's claim is secured by a junior deed of trust on the debtors' residence and the amount owed on the senior encumbrance exceeds the value of the real property. No timely opposition has been filed and the relief requested in the motion is supported by the record. As such, the court will grant the motion and set the amount of Dilbag Hothi's secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

10. [17-22627](#)-D-13 GRACIELLA HERNANDEZ  
RDG-1

OBJECTION TO DEBTOR'S CLAIM OF  
EXEMPTIONS  
6-26-17 [[42](#)]

**Final ruling:**

This is the trustee's objection to the debtor's claims of exemptions. On June 28, 2017, the debtor filed an amended Schedule C. As a result of the filing of the amended Schedule C, the objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

11. [17-23333](#)-D-13 SONIA MCDADE-THREADGILL  
PGM-2

MOTION TO VALUE COLLATERAL OF  
CONSUMER PORTFOLIO SERVICES,  
INC.  
7-6-17 [[37](#)]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. As such the court will grant the motion and, for purposes of this motion only, sets the creditor's secured claim in the amount set forth in the motion. Moving party is to submit an order which provides that the creditor's secured claim is in the amount set forth in the motion. No further relief is being afforded. No appearance is necessary.

12. [17-23134](#)-D-7 KIRSTEN SEALANA  
RDG-2

OBJECTION TO DEBTOR'S CLAIM OF  
EXEMPTIONS  
6-26-17 [[21](#)]

**CONVERTED TO CHAPTER 7:**

13. [17-22244](#)-D-13 KRISTEN MILLARD MOTION TO CONFIRM PLAN  
JTN-3 6-27-17 [[31](#)]

**Final ruling:**

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

14. [17-23746](#)-D-13 RONALD BRADLEY OBJECTION TO CONFIRMATION OF  
AP-1 PLAN BY WELLS FARGO BANK, N.A.  
6-30-17 [[13](#)]

**Final ruling:**

This is the objection of Wells Fargo Bank, N.A. to confirmation of the debtor's original chapter 13 plan. On July 9, 2017, the debtor filed an amended plan and a motion to confirm it, set for hearing on August 29, 2017. As a result of the filing of the amended plan, the objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

15. [17-22955](#)-D-13 JOSE OCHOA CONTINUED OBJECTION TO  
JM-1 CONFIRMATION OF PLAN BY ONEMAIN  
FINANCIAL SERVICES, INC.  
6-28-17 [[23](#)]

16. [17-22955](#)-D-13 JOSE OCHOA CONTINUED OBJECTION TO

17. [17-22955](#)-D-13 JOSE OCHOA  
TOG-1

MOTION TO VALUE COLLATERAL OF  
ONEMAIN FINANCIAL GROUP, LLC  
6-29-17 [[28](#)]

18. [16-26469](#)-D-13 LONEY/MARY TURPIN  
TAG-10

CONTINUED MOTION FOR  
COMPENSATION BY THE LAW OFFICE  
OF LAW OFFICES OF TED A.  
GREENE, INC. FOR AUBREY L.  
JACOBSEN, DEBTORS' ATTORNEY(S)  
6-29-17 [[133](#)]

19. [16-26469](#)-D-13 LONEY/MARY TURPIN  
TAG-12

MOTION TO SELL  
7-19-17 [[153](#)]

**Tentative ruling:**

This is the debtors' motion to approve a short-sale of certain real property. The motion will be denied because the moving parties served only the chapter 13 trustee, the United States Trustee, the lienholder, and the parties requesting special notice and failed to serve any of the several other creditors in the case, as required by Fed. R. Bankr. P. 2002(a)(2). In the alternative, the court will continue the hearing to permit the moving parties to correct this service defect.

The court will hear the matter.

20. [16-26469](#)-D-13 LONEY/MARY TURPIN MOTION TO CONFIRM PLAN  
TAG-9 6-21-17 [[115](#)]

21. [16-26671](#)-D-13 JOHN/HASINA HELMANDI MOTION TO CONFIRM PLAN  
RM-7 7-5-17 [[155](#)]

**Final ruling:**

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons: (1) the moving parties failed to serve the Franchise Tax Board and the State Board of Equalization at their addresses on the Roster of Governmental Agencies, as required by LBR 2002-1(b); and (2) the moving parties gave only 41 days' notice of the hearing rather than 42, as required by LBR 3015-1(d)(1) and applicable rules.

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

22. [17-20879](#)-D-13 TODD GIBBS AND LYDIA MOTION TO MODIFY PLAN  
MC-1 DIAZ-GIBBS 6-24-17 [[18](#)]

**Final ruling:**

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

23. [17-21381](#)-D-13 SANDRA SANDERS MOTION TO VALUE COLLATERAL OF  
PGM-2 INTERNAL REVENUE SERVICE  
7-14-17 [[44](#)]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. As such the court will grant the motion and, for purposes of this motion only, sets the creditor's secured claim in the amount set forth in the motion. Moving party is to submit an order which provides that the creditor's secured claim is in the amount set forth in the motion. No further relief is being afforded. No appearance is necessary.

24. [17-23581](#)-D-13      EDGARDO HIRAM MORALES      MOTION TO VALUE COLLATERAL OF  
TBK-1      MIDFLORIDA CREDIT UNION  
7-14-17 [[24](#)]

Final ruling:

This is the debtor's motion to value collateral of MidFlorida Credit Union; namely, the debtor's 2015 Honda Accord LX. The motion will be denied for the following reasons. First, the moving party failed to serve the Credit Union in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving party served the Credit Union (1) by first-class mail with no attention line; and (2) by certified mail to the attention of its named CEO/President. The first method was insufficient because the Credit Union was required to be served to the attention of an officer, managing or general agent, or agent for service of process (Rule 7004(b)(3)), whereas here, there was no attention line. Further, the Credit Union is not an FDIC-insured institution and was required to be served by first-class mail, not certified mail. Compare Fed. R. Bankr. P. 7004(b)(3) and preamble to 7004(b) with Fed. R. Bankr. P. 7004(h).

Second, the moving party has failed to demonstrate he is not precluded under the hanging paragraph following § 1325(a)(9) from valuing the vehicle. The moving papers say nothing about when the debt was incurred. The debtor's Schedule D lists the date the debt was incurred as "2014-12." Whether incurred at the beginning of December of 2014 or at the end of the month, the debt was incurred within the 910 days preceding the filing of this case. Further, the debtor does not have a business; thus, it appears the vehicle was purchased for the personal use of the debtor and that, under the hanging paragraph, the debtor is not entitled to value the collateral. Thus, the debtor has failed to demonstrate he is entitled to the relief sought, as required by LBR 9014-1(d)(7).

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

25. [14-20883](#)-D-13      ALLEN/PATRICIA FRANSCELLA      MOTION TO MODIFY PLAN  
MSN-1      6-26-17 [[57](#)]

Final ruling:

The relief requested in the motion is supported by the record and no timely



opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is referenced in LBR 3015-1(e). The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

26. [17-23785](#)-D-13 JASWINDER SINGH OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D. GREER  
7-21-17 [[15](#)]

**Final ruling:**

This is the trustee's objection to confirmation of the debtor's original chapter 13 plan. On July 25, 2017, the debtor filed an amended plan and a motion to confirm it, set for hearing on September 12, 2017. As a result of the filing of the amended plan, the objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

27. [17-23786](#)-D-13 KEVIN LAGORIO AND MISTII AMENDED OBJECTION TO  
ROCHA-LAGORIO CONFIRMATION OF PLAN BY  
NATIONAL CITY BANK OF INDIANA  
7-20-17 [[24](#)]

**Final ruling:**

This is the objection of First National Bank of Indiana to confirmation of the debtors' original chapter 13 plan. On July 25, 2017, the debtors filed an amended plan and a motion to confirm it, set for hearing on September 12, 2017. As a result of the filing of the amended plan, the objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

28. [17-21688](#)-D-13 ROBIN/DONA JOHNSTON MOTION TO PAY  
SSA-2 7-21-17 [[61](#)]

29. [17-23595](#)-D-13 FRANK/PAMELA ANDERSON OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D. GREER  
7-21-17 [[34](#)]

30. [17-23595](#)-D-13 FRANK/PAMELA ANDERSON MOTION TO VALUE COLLATERAL OF  
TLC-1 SANTANDER CONSUMER USA, INC.  
7-17-17 [[27](#)]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. As such the court will grant the motion and, for purposes of this motion only, sets the creditor's secured claim in the amount set forth in the motion. Moving party is to submit an order which provides that the creditor's secured claim is in the amount set forth in the motion. No further relief is being afforded. No appearance is necessary.

31. [17-22396](#)-D-13 CYNTHIA/PAUL MARSH MOTION TO CONFIRM PLAN  
HWW-3 7-4-17 [[52](#)]

32. [17-22998](#)-D-13 ANTHONY MOORE OBJECTION TO DEBTOR'S CLAIM OF  
RDG-3 EXEMPTIONS  
6-26-17 [[27](#)]

**Final ruling:**

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

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

34. [17-23333](#)-D-13 SONIA MCDADE-THREADGILL CONTINUED OBJECTION TO  
RDG-2 CONFIRMATION OF PLAN BY RUSSELL  
D. GREER  
7-10-17 [[42](#)]
35. [17-23837](#)-D-13 FRANCISCO/MARIA PADILLA OBJECTION TO CONFIRMATION OF  
RDG-2 PLAN BY RUSSELL D. GREER  
7-21-17 [[34](#)]
36. [16-25449](#)-D-13 GLENER SUASIN CONTINUED MOTION TO MODIFY PLAN  
JCK-3 6-5-17 [[57](#)]
37. [12-36066](#)-D-13 MATTHEW/ANDREA MOTION TO INCUR DEBT  
MSN-1 SCHWERTFEGER  
7-31-17 [[80](#)]

38. [17-23175](#)-D-13 BENJAMIN MANSHIP  
HRH-1  
WELLS FARGO BANK, NATIONAL  
ASSOCIATION VS.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
8-1-17 [[35](#)]