UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

October 15, 2013 at 10:00 a.m.

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. Matters resolved without oral argument:

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

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

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

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

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

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1. 09-30513-D-13 DN-4 — STEVEN/BRANDY NORMAN — OBJECTION TO CLAIM OF PREFERRED JEWELERS, CLAIM NUMBER 28 8-28-13 [81]

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

2. 12-27014-D-13 WW-3 — LISA ROCHA — MOTION TO MODIFY PLAN 9-5-13 [60]

3. 13-31615-D-13 TERESA GOUL
ADR-1
REO A&D, LLC VS.

MOTION FOR RELIEF FROM AUTOMATIC STAY AND/OR MOTION FOR ADEQUATE PROTECTION
9-11-13 [11]

Final ruling:

This case was dismissed on September 23, 2013. As a result the motion will be denied by minute order as moot. No appearance is necessary.

4. 13-27621-D-13 CLAUDIA JOB
MLA-4

MOTION TO VALUE COLLATERAL OF TEDROWE REALTY AND INVESTMENTS
9-12-13 [63]

5. 13-27621-D-13 CLAUDIA JOB
MLA-5

MOTION TO VALUE COLLATERAL OF TEDROWE REALTY AND INVESTMENTS
9-12-13 [69]

6. 13-31224-D-13 ALVARO MONCADA AND CARMEN MORAGA
JDP-1

MOTION TO VALUE COLLATERAL OF JP MORGAN CHASE BANK, N.A.
9-4-13 [8]

Final ruling:

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

7. 13-29526-D-13 BRENDA CARTER — OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER
RDG-1 — 9-6-13 [15]

Tentative ruling:

This is the trustee's objection to the debtor's claim of exemptions. The objection is based on the debtor's failure to file a spousal waiver, as required for use of the § 703.140(b) exemptions she has claimed. On September 12, 2013, the debtor filed a spousal waiver which, however, is signed only by the debtor's spouse, and not by the debtor. Pursuant to Cal. Code Civ. Proc. § 703.140(a)(2), the exemptions provided by § 703.140(b) are applicable only where both spouses waive in writing the right to claim, during the period the case is pending, the other exemptions. Because the debtor has not waived the right to claim the other exemptions, the trustee's objection will be sustained.

The court will hear the matter.

8. 13-26034-D-13 GARY/SABRINA SCHWARTZ — MOTION TO AVOID LIEN OF ACCESS CAPITOL SERVICES, INC.
TBK-4 — 9-10-13 [64]

Tentative ruling:

This is the debtors' motion to avoid an alleged judicial lien held by Access Capital Services, Inc. ("Access Capital"). No party-in-interest has filed opposition. However, that does not necessarily entitle the moving parties to the relief requested. "[I]t is black-letter law that entry of default does not entitle a plaintiff to judgment as a matter of right or as a matter of law." All Points Capital Corp. v. Meyer (In re Meyer), 373 B.R. 84, 88 (9th Cir. BAP 2007), citing Fed. R. Civ. P. 55(b)(2), incorporated herein by Fed. R. Bankr. P. 7055. "Settled precedent establishes that default judgment is a matter of discretion in which the court is entitled to consider, among other things, the merits of the substantive claim, the sufficiency of the complaint, the possibility of a dispute regarding material facts, whether the default was due to excusable neglect, and the 'strong policy' favoring decisions on the merits." Id., citing Eitel v. McCool, 782 F.2d 1470, 1471-72 (9th Cir. 1986). Having examined the moving papers, the court will deny the motion.

"There are four basic elements of an avoidable lien under § 522(f)(1)(A): First, there must be an exemption to which the debtor would have been entitled under subsection (b) of this section. 11 U.S.C. § 522(f). Second, the property must be listed on the debtor's schedules and claimed as exempt. Third, the lien must impair that exemption. Fourth, the lien must be . . . a judicial lien. 11 U.S.C. § 522(f)(1)." In re Goswami, 304 B.R. 386, 390-91 (9th Cir. BAP 2003), citing In re Mohring, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992) (emphasis added).

Since there must be a judicial lien for the court to avoid under § 522(f)(1)(A), the moving parties must demonstrate that one actually exists. The debtors' declaration states that at the time this case was filed, their residence was encumbered by a judgment lien of Access Capital in the amount of $35,878. Although the declaration states that a copy of the abstract of judgment is included

in the exhibits filed with the motion, the exhibit is merely a copy of the cover page, and there is no copy of the abstract of judgment itself. Accordingly, the debtors' assertion that there is a judgment lien is hearsay, and the debtors have not met the requirements for avoiding a judicial lien under 11 U.S.C. § 522(f)(1)(A). See LBR 9014-1(d)(6), requiring every motion to be accompanied by evidence establishing its factual allegations and demonstrating that the moving party is entitled to the relief requested.

As a result of this evidentiary defect, the motion will be denied by minute order. Alternatively, the court will continue the hearing to allow the debtors to supplement the evidentiary record. The court will hear the matter.

9.	13-29734-D-13 CLH-1	GREGORY/PAULETTE CARON	MOTION TO VALUE COLLATERAL OF SLEEP TRAIN, GE CAPITAL RETAIL BANK 9-7-13 [20]

Tentative ruling:

This is the debtors' motion to value collateral of Sleep Train, GE Capital Retail Bank (the "Bank"); namely, a Sleep Train bed, at $500. The motion will be denied because the moving parties have failed to supply any evidence establishing that they are entitled to the relief requested, as required by LBR 9014-1(d)(6). Specifically, the debtor's declaration does not state when the debt was incurred; thus, the court is unable to determine whether the claim meets the requirements for valuation, as provided in the "hanging paragraph" of § 1325(a) of the Bankruptcy Code. The debtors did not provide this information on their Schedule D either, although the information is clearly called for by the language of the official form of Schedule D.

As a result of this evidentiary defect, the motion will be denied by minute order. Alternatively, the court will continue the hearing to allow the debtors to supplement the evidentiary record. The court will hear the matter.

10.	13-26235-D-13 MOT-1	LAURO QUITORIANO	MOTION TO CONFIRM PLAN 8-23-13 [42]

Final ruling:

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied because the plan proposes to value the claim of Chase Bank, secured by a second position deed of trust against the debtor's residence, at $0, whereas the debtor has failed to obtain an order valuing the collateral securing the claim, as required by LBR 3015-1(j).

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

11. 13-26741-D-13 VICTOR/VARNA FACHA — MOTION TO CONFIRM FIRST AMENDED PLAN
JGL-2 — 9-2-13 [37]

12. 13-27642-D-13 NANCY CLAUS — MOTION TO VALUE COLLATERAL OF JPMORGAN CHASE BANK, N.A.
PGM-2 — 9-9-13 [36]

Tentative ruling:

This is the debtor's motion to value the collateral securing the claim of JPMorgan Chase Bank (the "Bank") -- a junior deed of trust against the debtor's residence -- at $0. The Bank has filed opposition, and the debtor has filed a reply. For the following reasons, the motion will be denied.

The debtor alleges that the value of the property is $325,000 and that there is a senior deed of trust on which $375,000 is owing, leaving no value to secure the Bank's deed of trust. The debtor supported the motion with her own declaration, in which she stated, "I determined the value of my property based on my residing in the home and it is my primary residence." Debtor's declaration, filed Sept. 9, 2013, at 2:3-4. In opposition, the Bank has filed an appraisal authenticated by the declaration of licensed real estate appraiser Robert D. McClure, who testifies that in his opinion, the fair market value of the property in "as is" condition is $413,000. In reply, the debtor challenges certain points about Mr. McClure's appraisal, and requests an evidentiary hearing to cross-examine him. The debtor has filed the required separate statement of disputed material facts.

A homeowner may testify to her opinion of the value of her property. 2 Russell, Bankruptcy Evidence Manual § 701:2, pp. 784-85 (West 2012-2013 ed.). However, "[e]ven though [the homeowner's] testimony as to valuation is admissible, it should be subject to the same type of critical analysis as would the testimony of an independent 'expert.'" In re Brown, 244 B.R. 603, 612 (Bankr. W.D. Va. 2000); see also In re Jester, 344 B.R. 331, 339 (Bankr. E.D. Pa. 2006) (the weight to be given the testimony of a property owner as to the property's value, "as with any evidence, must be determined by the trier of fact.").

> **The court must determine how much weight to give the competing opinions of value. The Debtor's testimony is subject to the same critical analysis as that of an independent appraiser. Based on the differences between the parties' respective positions, the court must carefully scrutinize the methods by which the competing opinions were derived. When the owner of property is unable to provide a detailed explanation of how he or she arrived at a value for the property, the testimony may be insufficient to establish in the court's mind an "actual belief . . . derived from the evidence" as to the validity of the owner's opinion.**

In re Meeks, 349 B.R. 19, 22 (Bankr. E.D. Cal. 2006).

Thus, the court will begin with the debtor's testimony. She now testifies she determined the value of the property based on the fact that she resides in the home, and it is her primary residence. However, she testified in support of an earlier motion for this same relief that she determined the value "by reviewing Zillow.com, local comparable sales of homes in our neighborhood[,] and consulting with a realtor and/or broker." Declaration of Nancy Claus, filed July 25, 2013, at 2:3-5. In testifying to an opinion based on those sources, the debtor went far beyond the scope of what a homeowner may properly testify to as to the value of his or her property.

> If testifying under [Fed. R. Evid.] 701, the owner may merely give his opinion based on his personal familiarity [with] the property, often based to a great extent on what he paid for the property. On the other hand, if he is truly an expert qualified under the terms of Rule 702 "by knowledge, skill, experience, training or education . . .," then he may also rely on and testify as to facts "of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject . . ." pursuant to Rule 703. For example, the average debtor-homeowner who testifies in opposition to a motion for relief from the § 362 automatic stay should be limited to giving his opinion as to the value of his home, but should not be allowed to testify concerning what others have told him concerning the value of his or comparable properties unless the debtor truly qualifies as an expert under Rule 702 such as being a real estate broker, etc.

2 Russell, Bankruptcy Evidence Manual § 701:2, pp. 784-85 (West 2012-2013 ed.).

The debtor's earlier testimony as to the value of the property constituted inadmissible hearsay testimony (the debtor's review of Zillow.com and consultation with a realtor or broker) and testimony in the nature of facts of a type generally relied on by experts in the field of real property appraisal (the debtor's review of comparable sales) as to which the debtor had not shown she has any qualifications. Thus, the court concluded that her testimony was inadmissible. It was, nevertheless, sworn testimony by the debtor, and thus, apparently, true. The debtor's new testimony that she based her opinion of value, $325,000 – the same as her earlier opinion, on her position as a homeowner is therefore subject to doubt, and the court accords it little, if any, weight. It is significant that the debtor has chosen not to obtain a formal appraisal of her own in support of this new motion, or to submit in admissible form any of the information she relied on earlier, such as testimony by the realtor or broker she consulted, the local comparables she reviewed in some admissible form, or even a copy of the zillow.com printout she relied on.[1]

The debtor challenges Mr. McClure's appraisal based on her or her attorney's beliefs that he (1) used an unreasonably high comparable, Comparable #3, as compared with the others; (2) made a price adjustment to another comparable, Comparable #1, based on lot size without any "evidentiary facts";[2] (3) failed to deduct $6,000 from the value of the subject property for deferred maintenance, as he deducted $6,000 from the prices of the comparables; and (4) used a square footage figure for a comparable, Comparable #1, that differs from the figure shown by the county records.

Taking these in reverse order, there is no evidence of the figure shown by the county records, and in any event, the price adjustment Mr. McClure made, $6,000, is

not so significant as to affect the court's overall conclusion as to value. The complaint that Mr. McClure failed to deduct $6,000 from the value of the subject property for deferred maintenance represents a misunderstanding of the appraisal process. Adjustments are made to the prices of the comparable properties so as to make them more "comparable" with the subject property; the same adjustments obviously cannot be made to the subject property itself. The court is not sure what "evidentiary facts" the debtor would have Mr. McClure present as to the difference in lot size between her property and Comparable #1. Mr. McClure made an upward adjustment of $20,000 because the debtor's property is 5 acres, as compared with 3.17 acres for Comparable #1. The debtor does not suggest how this adjustment was inappropriate, or even that it was.

Finally, the court recognizes that the price of Comparable #3, $475,000, is significantly higher than those of the other three comparables, $385,000, $340,000, and $350,000, and thus, that the price per square foot is higher. However, the appraisal states that the subject property is on over an acre of land, and that no recent similar homes within 1/2 mile could be found; thus, Mr. McClure expanded the search to approximately 10 miles. The appraisal states that the comparables chosen are considered the best available at this time, and that no other more similar sales could be found. The court notes that Comparable #3 is the closest to the subject in lot size. In addition, although Comparable #3 is much newer than the debtor's property, for which Mr. McClure adjusted the price downward by $40,000, it is also significantly smaller in gross living area (2,078 square feet versus 2,778 for the debtor's property), for which he adjusted the price upward by $28,000. The court has no reason to conclude these adjustments were not appropriate.

To conclude, for the reasons stated, the court gives little, if any, weight to the debtor's testimony as to value, and far greater weight to the opinion of Mr. McClure, a professional in the real estate industry. Thus, the court concludes that the value of the property is $413,000. Because there is some value in the property to which the Bank's lien attaches, and because the property is the debtor's residence, the claim cannot be modified (11 U.S.C. § 1322(b)), and the motion will be denied. The debtor's request for an evidentiary hearing will be denied, as permitted by LBR 9014-1(g)(4), because an evidentiary hearing is not necessary and would not be helpful to the court's determination of the disputed material factual issues identified in the debtor's separate statement – whether the Bank met its burden of persuasion, whether the Bank improperly excluded information from its appraisal, whether the Bank improperly included Comparable #3 to skew the result against the debtor, and ultimately, what the value of the property is.

The court will hear the matter.

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1 The court notes that zillow.com, as of today, estimates the value of the property at $435,838, over $100,000 higher than the debtor's opinion, and higher even than Mr. McClure's. See http://www.zillow.com/homes/910-w.-harney-lane,-lodi,-ca_rb/ (last reviewed 10/10/13). The court takes judicial notice of this zillow estimate not for the purpose of determining the value of the property, but solely for the purpose of subjecting the debtor's testimony to "the same critical analysis as that of an independent appraiser." Meeks, 349 B.R. at 22.

2 Debtor's Reply, filed Oct. 8, 2013, at 3:25.

13. 11-25944-D-13 DAVID/LORRAINE LUJAN — MOTION TO APPROVE LOAN MODIFICATION
RAC-2 — 9-4-13 [43]

Final ruling:

The court finds that a hearing will not be helpful and is not necessary. This is the debtors' motion to approve a mortgage loan modification. The trustee has filed opposition, and the debtors have filed a response. For the reasons stated below, the motion will be denied.

The debtors' mortgage payment has been $1,759; under the loan modification, it would be $1,581. Thus, it appeared from the motion that the modification would save the debtors $178 per month. At the time they filed the motion, the debtors filed an amended Schedule J, on which they increased certain other expenses, including Internet, phone, cell phone, alarm, and home maintenance, by a total of $178, thus exactly offsetting the savings they would see from the loan modification. However, the trustee noted in his opposition that the amended Schedule J continued to include $336 per month for property taxes, whereas under the loan modification, the debtors' property tax payments would be included in their mortgage payment. Thus, the trustee contended, the debtors had duplicated their property tax expense, and should instead contribute the $336 per month to their creditors, who under the debtors' confirmed plan, are to receive a 0% dividend. The trustee added that as the debtors had already amended their Schedule J, there was no need for further amendment.

Nevertheless, the debtors filed a response and another amended Schedule J, just one month after the first amended schedule was filed. This time, they again increased their expenses, including Internet, phone, cell phone, alarm, home maintenance, food, clothing, laundry and dry cleaning, and medical and dental, by another $336, thus exactly offsetting the duplicate property tax expense the trustee had discovered. The debtors admit the $336 was duplicated by mistake; they contend, however, that their budget has been tight, and they have found it difficult to meet all their obligations. Thus, they request they be allowed to complete the loan modification and that they "not be forced to increase their plan payments." Debtors' Response, filed October 2, 2013, at 5:7-8. The problem is that a debtor's schedules are not designed to be completed in such a way that creditors, the trustee, and the court are forced to guess when the debtor's figures are conservative and when they are not. That is, the court and parties-in-interest should be able to rely on the schedules as being an accurate reflection of the debtor's income and expenses. Without this requirement, there would hardly be any point to filing schedules at all.

The court notes also that in their declaration in support of this motion, filed September 4, 2013 with their first amended Schedule J, the debtors testified, "We have filed an amended schedule J showing our ability to pay pursuant to the modification." Debtors' declaration, filed Sept. 4, 2013, at 3:1-2. As with the schedules themselves, the court and parties-in-interest must be able to rely on sworn statements such as this as being accurate. The debtors would, instead, have the court endorse a system where debtors may simply increase other expenses when the trustee discovers an expense they have mistakenly duplicated.

The debtors also claim some of their expenses were below the IRS standards. This is true; however, others were above those standards. Further, the debtors,

although above-median income even for a family of three, included their son in their household size, and thus, the IRS standards they refer to are for a family of three, whereas the debtors' son was 20 years old at the time of filing, and is now at least 22, and is not and has not been contributing to the household expenses at all. The debtors have made no showing he is chronically ill or disabled, such that they should be allowed to support him at the expense of their creditors, as permitted by § 707(b)(2)(A)(ii)(II) of the Bankruptcy Code (incorporated into the disposable income test for above-median income debtors by § 1325(b)(3)).

Considering the totality of the circumstances, and especially in light of the facility with which the debtors have amended their Schedule J to completely offset the possibility that favorable developments such as the loan modification might inure to the benefit of their creditors, the court cannot find the motion was filed in good faith and will deny the motion by minute order. No appearance is necessary.

14. 12-35945-D-13 GFG-25 — CLAUDE/KELEEN BRYANT — MOTION TO MODIFY PLAN 8-21-13 [146]

Final ruling:

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons. First, the proof of service states that service was made and the proof of service was signed on October 15, 2013, whereas the proof of service was filed roughly two months earlier, on August 21, 2013; thus, the proof of service cannot be accurate, and the record does not demonstrate that service was properly made. Second, the proof of service describes the plan served only as an amended chapter 13 plan, whereas the debtors have filed five different amended plans in this case; thus, the record is not clear which of those amended plans was served. Third, the moving papers contain a docket control number, GFG-25, which does not comply with LBR 9014-1(c)(3), which requires the docket control number to reflect the number of motions previously by the attorney or law firm in the particular bankruptcy case. Previous motions in this case have been designated GFG-88 and GFG-91, which, similarly, were not in compliance with the rule. Finally, the plan provides for the secured claim of Wells Fargo Dealer Services in the amount of $8,134, whereas the debtors have previously entered into and the court has approved a stipulation valuing the claim at $10,000.

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

15. 12-36847-D-13 TBK-4 — CORDELL PENNIX AND HORTENSIA WATTS-PENNIX — MOTION TO MODIFY PLAN 9-9-13 [39]

16. 10-36151-D-13 JESSE/RAYSHA PATTERSON — MOTION TO MODIFY PLAN
CJY-1 — 9-5-13 [21]

Final ruling:

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

17. 13-26259-D-13 JAGROOP SINGH — OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
RDG-2 — 9-6-13 [51]

Final ruling:

This is the trustee's objection to the debtor's claim of exemptions. The objection is based on the debtor's failure to file a spousal waiver, as required for use of the § 703.140(b) exemptions he has claimed. On October 4, 2013, the debtor filed an amended Schedule C in which he claimed the exemptions provided by §§ 704.010, et seq., instead of the § 703.140(b) exemptions. As a result of the filing of the amended schedule, the objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

18. 13-22160-D-13 JULIE JOYCE — CONTINUED MOTION FOR APPROVAL OF POST PETITION DUES AS AN ADMINISTRATIVE PRIORITY CLAIM AND/OR MOTION REQUIRING DEBTOR PROVIDE FOR PAYMENT OF POST PETITION DUES IN THE PLAN
ARM-1 — 8-20-13 [87]

Tentative ruling:

This is the motion of the debtor's homeowners' association, Village at Summergate Homeowners' Association ("Summergate"), for approval of post-petition dues in the amount of $1,524.16 as an administrative claim. The debtor has filed opposition, and Summergate has filed a reply declaration. For the following reasons, the motion will be granted in part.

Summergate submitted with its motion a transaction listing, authenticated by its property manager's employee responsible for property management duties for Summergate, showing that of the six homeowner's dues assessments that came due post-petition up to the date the motion was filed, those for March through August 2013, at $320 each, the debtor has made only two. Thus, with late charges and a pro-rated payment for February 2013, the month in which the petition was filed, Summergate seeks $1,524.16.

The debtor makes three arguments: first, that she made the payments for March, April, and May, but the payments were returned to her with a demand for payment in full of the pre-petition balance due. Summergate acknowledges that it returned those three payments, but claims it did so because it was not aware of the bankruptcy. As this is not a proceeding charging Summergate with violating the stay, Summergate's motives are not relevant. What is relevant is that the debtor has not replaced those three payments since they were returned to her.

Second, the debtor accuses Summergate of misapplying payments, harassing her, and charging late fees for payments previously made. These charges center on Summergate's decision to prorate the February dues as between pre- and post-petition, whereas according to the debtor, the monthly payments are due on the first of the month, so the entire amount is part of Summergate's pre-petition claim. The amount at stake – the amount Summergate has included as part of its administrative claim – is $84.16. Neither party has provided evidence or legal authority in support its or her position. Thus, as the moving party has the burden of proof,[1] the issue will be resolved against Summergate. There is no basis for the debtor's conclusion that Summergate has harassed her. The allegation of improper late charges appears to relate to the late charges on the March, April, and May payments that Summergate returned to the debtor. The court would be inclined to find for the debtor on this issue, except that she is long overdue in replacing those three payments.

Finally, the debtor contends there can be no administrative claims in this case because, under § 1327(b) and the terms of the debtor's particular plan, all property of the estate revests in the debtor upon confirmation, and there is no estate to preserve. The problem with this argument is obvious – to date, no plan has been confirmed in this case. Thus, the debtor's property, including her possessory interest in her condo and the complex's common areas, has been property of the estate during the period for which the post-petition dues are sought. To conclude, Summergate has demonstrated by admissible evidence that as of the date the motion was filed, August 20, 2013, the debtor owed Summergate $1,440 ($1,524.16 minus $84.16) in post-petition dues and late charges, which will be allowed as an administrative claim.[2]

The court will hear the matter.

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1 In re DAK Indus., 66 F.3d 1091, 1094 (9th Cir. 1995).

2 The debtor included with her opposition a copy of a Bank of America printout showing she had scheduled a payment for August 29, 2013, to cover her August dues. The printout has not been authenticated, and is inadmissible. To the extent the payment cleared, the amount of the payment, $320, may be treated as having been paid, but it will be included in the court's order granting this motion.

19. 13-22160-D-13 JGL-7 — JULIE JOYCE — CONTINUED MOTION TO CONFIRM PLAN
7-18-13 [71]

20. 13-22160-D-13 JGL-8 — JULIE JOYCE — MOTION TO VALUE COLLATERAL OF JEFFERSON CAPITAL SYSTEMS
9-16-13 [99]

Final ruling:

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

21. 09-44264-D-13 DN-2 — RICK/YOLANDA SANCHEZ — MOTION TO MODIFY PLAN
9-4-13 [43]

Final ruling:

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

22. 08-34871-D-13 JDP-1 — PAUL/MICHELE ZARAGOZA — MOTION TO VALUE COLLATERAL OF JP MORGAN CHASE BANK, N.A.
9-3-13 [111]

Final ruling:

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

23.	10-43271-D-13 TBK-1	JACKIE SCOTT	MOTION TO MODIFY PLAN 8-30-13 [118]
24.	13-30379-D-13 APN-1	DANIELLE MARTIN	AMENDED OBJECTION TO CONFIRMATION OF PLAN BY WELLS FARGO BANK, N.A. 9-12-13 [24]
25.	13-30380-D-13 APN-1	MICHAEL HANNA	AMENDED OBJECTION TO CONFIRMATION OF PLAN BY WELLS FARGO BANK, N.A. 9-12-13 [28]
26.	12-35387-D-13 JAD-4	MICHAEL/KARYN WATSON	MOTION TO MODIFY PLAN 9-4-13 [70]

Final ruling:

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

27. 13-23688-D-13 TBK-2 — STEVEN/ERIN SANSONI — MOTION TO MODIFY PLAN 9-3-13 [38]

28. 13-23688-D-13 TBK-3 — STEVEN/ERIN SANSONI — MOTION TO VALUE COLLATERAL OF WELLS FARGO BANK 9-4-13 [45]

Final ruling:

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

29. 13-29494-D-13 RDG-2 — LAURA RICHARDSON — OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS 9-6-13 [25]

Final ruling:

This is the trustee's objection to the debtor's claim of exemption. On September 27, 2013, the debtor filed an amended claim of exemption; as a result, the trustee's objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

30. 13-30402-D-13 RDG-1 — JOB/JENNIE WILSON — OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 9-20-13 [19]

31. 13-29922-D-13 RDG-1 — NORMAN/PANDORA BURTON — OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 9-20-13 [14]

32. 13-26235-D-13 PPR-1 — LAURO QUITORIANO — OBJECTION TO CONFIRMATION OF PLAN BY WELLS FARGO BANK, N.A. 10-1-13 [51]

Final ruling:

This is an objection by Wells Fargo Bank ("the Bank") to confirmation of the debtor's proposed chapter 13 plan. The objection will be overruled for the following reasons. First, the debtor has filed an original and an amended plan in this case, whereas the objection does not indicate which of those plans the Bank is objecting to. Second, the time for filing stand-alone objections to confirmation in this case has long since passed. See Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, & Deadlines, filed May 24, 2013. If the Bank's intention was to oppose the debtor's motion to confirm her amended plan, also on this calendar, the Bank should have filed an opposition to the motion, which should have included the docket control number of that motion, MOT-1 (see LBR 9014-1(c)(4)), rather than a new docket control number, as used here, and should not have been accompanied by a notice of hearing. (For the Bank's information, the court notes that the debtor's motion to confirm her amended plan, on this calendar, will be denied for a reason unrelated to the issues raised by the Bank.)

As a result of these procedural defects, the objection will be overruled by minute order. No appearance is necessary.

33. 13-30337-D-13 RDG-2 — RICARDO/MAGDALENA GUERRERO — OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 9-20-13 [27]

34.	13-30341-D-13 RDG-1	JONATHAN RUHGA	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 9-20-13 [14]
35.	13-30346-D-13 RDG-1	JUAN/ALMA VAZQUEZ	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 9-20-13 [21]
36.	13-29760-D-13 RDG-1	ALFRED/HELEN DIONG	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 9-20-13 [15]
37.	13-29976-D-13 RDG-1	RAMON BARRAGAN	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 9-20-13 [26]

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38.	11-24777-D-13 JCK-1	JOSEPH YOUNGBIRD	MOTION TO INCUR DEBT 9-26-13 [40]
39.	13-30380-D-13 RDG-1	MICHAEL HANNA	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 9-20-13 [34]
40.	13-30284-D-13 APN-1	SONYA FARNSWORTH	OBJECTION TO CONFIRMATION OF PLAN BY CAPITAL ONE AUTO FINANCE 9-24-13 [19]
41.	13-30284-D-13 RDG-1	SONYA FARNSWORTH	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 9-20-13 [16]

42. 13-29990-D-13 JOSE/JOSEFINA VAZQUEZ
RDG-1

OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER
9-20-13 [22]

43. 13-29799-D-13 ARTEMIO/NILDA OLIVAR
RDG-1

OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER
9-20-13 [26]

Final ruling:

The objection will be overruled as moot. The debtors filed an amended plan on October 8, 2013, making this objection moot. As a result the court will overrule the objection without prejudice by minute order. No appearance is necessary.

44. 13-31814-D-13 KEVIN KENNEDY
PPR-1
THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. VS.

MOTION FOR RELIEF FROM AUTOMATIC STAY O.S.T.
10-2-13 [24]