

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

February 4, 2014 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.

1.	13-35401-D-13	YVONNE BANKS	MOTION TO VALUE COLLATERAL OF
	DN-1		OCWEN LOAN SERVICING
			1-7-14 [16]

Final ruling:

This is the debtor's motion to value collateral of Ocwen Loan Servicing. The moving party served Ocwen to the attention of an officer, managing or general agent, as required by Fed. R. Bankr. P. 7004(b)(3) and 9014(b), but failed to also serve Ocwen through the attorneys who, on December 18, 2013, requested special notice on its behalf in this case. The hearing will be continued to February 18, 2014, at 10:00 a.m., the moving party to file, no later than February 4, 2014, a notice of continued hearing and to serve it, together with the motion and supporting declaration, on the attorneys who have requested special notice on behalf of Ocwen. The notice of continued hearing shall be a notice pursuant to LBR 9014-1(f)(2) (no written opposition required). The moving party shall file a proof of service no later than February 6, 2014.

The hearing will be continued by minute order. No appearance is necessary on February 4, 2014.

2. 13-29404-D-13 OLIVIA EVANS
DMR-1

MOTION TO CONFIRM PLAN
12-13-13 [56]

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.

3. 12-39906-D-13 RHONDA BUCKINGHAM
CJY-1

MOTION TO MODIFY PLAN
12-19-13 [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 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.

4. 13-32907-D-13 MINDY LOPEZ
JBR-1

MOTION TO CONFIRM PLAN
12-16-13 [23]

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 several of the creditors filing claims in this case at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g); (2) the moving party failed to serve Louis Lopez, listed on her Schedule H, as required by Fed. R. Bankr. P. 2002(b) (see also Fed. R. Bankr. P. 1007(a)(1)); (3) the proof of service does not adequately evidence service on the chapter 13 trustee and the United States Trustee in that it states those parties were served electronically, but it lists street addresses rather than e-mail addresses (see LBR 7005-1(d)(3)); (4) the proofs of service do not contain a caption, as required by the court's Revised Guidelines for the Preparation of Documents (the "Guidelines") and LBR 9004-1(a); and (5) the proof of service of the amended plan is attached to the plan rather than being filed separately, as required by the Guidelines and LBR 9004-1(a).

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

5. 10-53010-D-13 MICHAEL/MARGARET GABRIEL MOTION TO VALUE COLLATERAL OF
MM-5 KEY BANK AND/OR MOTION TO VALUE
COLLATERAL OF JP MORGAN CHASE
BANK
12-19-13 [74]

Final ruling:

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

6. 13-20719-D-13 VICTOR/DAWN ALEJANDRE CONTINUED MOTION TO CONFIRM
TBK-2 PLAN
12-2-13 [49]

7. 13-31224-D-13 ALVARO MONCADA AND CARMEN MOTION TO APPROVE LOAN
JDP-5 MORAGA MODIFICATION
1-9-14 [59]

8. 13-34427-D-13 VICTOR ENRIQUEZ OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
1-6-14 [26]

9. 13-34528-D-13 GABRIEL ARISMAN OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
1-6-14 [17]
10. 13-34729-D-13 MARCO REACHI AND IRMA OBJECTION TO CONFIRMATION OF
RDG-1 SANCHEZ PLAN BY RUSSELL D. GREER
1-6-14 [38]
11. 13-34530-D-13 DANA BUCKINGHAM OBJECTION TO CONFIRMATION OF
IRS-1 PLAN BY INTERNAL REVENUE
SERVICE
1-9-14 [22]
12. 13-34530-D-13 DANA BUCKINGHAM OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
1-6-14 [19]

13. 13-23735-D-13 TIMOTHY/ROSE FELZIEN CONTINUED MOTION TO CONFIRM
KRW-2 PLAN
11-15-13 [101]

14. 12-21542-D-13 GILBERT RODRIGUEZ AND OBJECTION TO CLAIM OF U.S. BANK
CJY-4 STEPHANIE TRUST, N.A., CLAIM NUMBER 8
12-10-13 [81]

Final ruling:

This is the debtors' objection to the claim of U.S. Bank Trust, N.A. (the "Claimant"). The objection will be overruled because the moving parties failed to serve the Claimant as required by LBR 3007-1(c). First, the moving parties were required to serve the Claimant at the address on its proof of claim, whereas, as a result of apparent typographical errors, the moving parties used an incorrect street number and an incorrect zip code. Second, the moving parties were also required to serve the Claimant at the address listed in their schedules, which they did not do.

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

15. 13-27642-D-13 NANCY CLAUS MOTION TO MODIFY PLAN
PGM-3 12-24-13 [58]

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.

16. 13-35043-D-13 MILLARD/DONNA HASLAM OBJECTION TO CONFIRMATION OF
RCO-1 PLAN BY JPMORGAN CHASE BANK,
N.A.
1-9-14 [25]

17. 13-27045-D-13 GEORGINA DANIELS-WILLIAMS MOTION TO CONFIRM PLAN
JAD-3 12-11-13 [61]

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.

18. 13-27045-D-13 GEORGINA DANIELS-WILLIAMS MOTION TO VALUE COLLATERAL OF
JAD-4 SANTANDER CONSUMER USA, INC.
12-11-13 [66]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion 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.

19. 10-48549-D-13 THOMAS/LINDA WAGNER MOTION TO MODIFY PLAN
JCK-2 12-19-13 [44]

Final ruling:

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is 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.

20. 11-42949-D-13 JAMES/GWENDOLYN HARRISON MOTION TO MODIFY PLAN
DMR-1 12-24-13 [102]

Final ruling:

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

21. 13-30551-D-13 JEFFEREY BURCH AND LISA CONTINUED MOTION TO CONFIRM
TBK-1 VALERIO-BURCH PLAN
11-4-13 [25]

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. 13-34853-D-13 JUDY FOSTER MOTION TO AVOID LIEN OF
JCK-2 CITIBANK (SOUTH DAKOTA), N.A.
12-24-13 [24]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed and the relief requested in the motion is supported by the record. The court finds the judicial lien described in the motion impairs an exemption to which the debtor is entitled. As a result, the court will grant the debtor's motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

23. 13-29654-D-13 PHILIP FLORES MOTION TO CONFIRM PLAN
SJS-2 12-12-13 [37]

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.

24. 13-33755-D-13 PEGGI/DOMINIC MACHADO MOTION TO VALUE COLLATERAL OF
AKH-1 BANK OF AMERICA
12-26-13 [24]

25. 13-33755-D-13 PEGGI/DOMINIC MACHADO
RDG-1

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D. GREER
12-18-13 [21]

26. 13-26259-D-13 JAGROOP SINGH
MJK-3

CONTINUED MOTION TO AVOID LIEN
OF HSBC BANK NEVADA, N.A.
12-2-13 [125]

Final ruling:

This is the debtor's motion to avoid a judicial lien held by HSBC Bank Nevada, N.A., now apparently held by Capital One Bank (USA), N.A. The motion will be denied for the following reasons.

The hearing was continued to this date because the moving party served only HSBC Bank USA, N.A., and not HSBC Bank Nevada, N.A., whereas, according to the FDIC's website, the two banks are different entities. The court noted that according to the FDIC's website, HSBC Bank Nevada, N.A. was closed in July of 2013, and is no longer in operation, but added this does not mean a party moving for relief against that entity may accomplish effective service simply by serving a different entity entirely, although it has a similar name, at least not without providing some evidence that the lien that is the subject of the motion is now held by that different entity.

The court continued the hearing to this date to allow the moving party to file a notice of continued hearing and to serve it, together with the motion and all other moving papers, on HSBC Bank Nevada, N.A. or such other entity as the moving party demonstrates by way of admissible evidence is the present holder of the lien in question.¹ The court's ruling stated that the notice of continued hearing might be a notice pursuant to LBR 9014-1(f)(1) or (f)(2), at the moving party's election, depending on whether the notice of continued hearing and other moving papers were served at least 14 days or at least 28 days prior to the continued hearing date.

On January 21, 2014, the moving party filed a notice of continued hearing and served it, together with the motion and supporting documents, thereby providing 14 days' notice of the continued hearing date. However, the notice of continued hearing is a notice under LBR 9014-1(f)(1); that is, it purports to require the filing of written opposition at least 14 days before the hearing date. It adds that without good cause, no party shall be heard in opposition to the motion at oral argument if written opposition has not been timely filed. That language was obviously not appropriate for a notice that provided only 14 days' notice.

Finally, the court notes that the proof of service of the notice of continued hearing and other moving papers states that service was made on January 22, 2014, but it was signed the day before, January 21, 2014. Thus, the proof of service

cannot have been accurate, and the motion will be denied for failure to demonstrate that service was properly made.

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

1 The moving party has submitted a declaration of his attorney, along with copies of e-mails by which the moving party's attorney learned from the attorneys who obtained the abstract of judgment that the successor in interest to HSBC Bank Nevada, N.A. is Capital One Bank. Thus, the moving party addressed the notice of continued hearing to Capital One Bank, as successor in interest to HSBC Bank Nevada, N.A., and served the notice, along with the motion, supporting declaration, the declaration of the debtor's attorney, and the exhibits, including copies of the e-mails, on Capital One Bank, pursuant to Fed. R. Bankr. P. 7004(h), as required by Fed. R. Bankr. P. 9014(b).

27. 13-32165-D-13 QUANG NGUYEN MOTION TO CONFIRM PLAN
DAT-2 12-16-13 [53]

Final ruling:

This case was dismissed on December 18, 2013. As a result the motion will be denied by minute order as moot. No appearance is necessary.

28. 13-29872-D-13 TORIE ESCAMILLA MOTION TO CONFIRM PLAN
DEF-3 12-10-13 [39]

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.

29. 13-33876-D-13 SHAWN CRARY MOTION TO CONFIRM PLAN
LRR-2 12-17-13 [25]

Tentative ruling:

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied because the moving party failed to serve the four creditors added to his Schedule F by amendment filed November 26, 2013; thus, the moving party failed to serve all creditors, as required by Fed. R. Bankr. P. 2002(b). Alternatively, the court will continue the hearing to allow the moving party to cure this service defect.

The court will hear the matter.

30. 13-32889-D-13 ABRAHAM/SILVIA FARIAS MOTION TO CONFIRM PLAN
TOG-2 12-16-13 [23]

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.

31. 11-20490-D-13 ROBERT/GINA DAVIS MOTION TO MODIFY PLAN
DMR-1 12-26-13 [76]

32. 12-21390-D-13 LISIATE/ANA TULUA MOTION TO MODIFY PLAN
DMR-1 12-17-13 [119]

33. 13-35292-D-13 JULIO/TAMMI ADAME MOTION FOR RELIEF FROM
SW-1 AUTOMATIC STAY
ALLY FINANCIAL, INC. VS. 1-7-14 [20]

Final ruling:

The matter is resolved without oral argument. This motion was noticed under LBR 9014-1(f)(2). However, the debtors filed a statement of non-opposition and the trustee has filed a Report of No Assets. Accordingly, the court finds a hearing is not necessary. The court will grant relief from stay as to the debtors and the trustee and the estate by minute order. There will be no further relief afforded. No appearance is necessary.

34. 13-33901-D-13 RUBY LIPTACK CONTINUED OBJECTION TO
RDG-1 CONFIRMATION OF PLAN BY RUSSELL
D. GREER
12-20-13 [15]
35. 13-35120-D-13 ROBERT/DANIELLE SIMPSON OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
1-15-14 [14]
36. 13-34543-D-13 NEAL/MERCEDES MEYERS OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
1-10-14 [26]
- Final ruling:**
- The objection will be overruled as moot. The debtors filed an amended plan on January 15, 2014, making this objection moot. As a result the court will overrule the objection without prejudice by minute order. No appearance is necessary.**
37. 13-34427-D-13 VICTOR ENRIQUEZ OBJECTION TO CONFIRMATION OF
PPR-1 PLAN BY BANK OF AMERICA, N.A.
BANK OF AMERICA, N.A. VS. 1-22-14 [35]

38. 08-34947-D-13 KURT/JEANNIE MOELLER MOTION TO VALUE COLLATERAL OF
JDP-2 SUNTRUST MORTGAGE
1-21-14 [147]
39. 09-31047-D-13 WALTER TORRES AND DELMY MOTION TO APPROVE LOAN
CJY-2 GONZALEZ MODIFICATION
1-13-14 [42]
40. 13-34875-D-13 MARY HARRINGTON OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
1-10-14 [21]
41. 13-34680-D-13 KEITH/ADRIALYN HEDMAN OBJECTION TO CONFIRMATION OF
RDG-2 PLAN BY RUSSELL D. GREER
1-10-14 [25]

42. 13-35082-D-13 SANTAREJAI/DASHANNA BROWN OBJECTION TO CONFIRMATION OF
RDG-2 PLAN BY RUSSELL D. GREER
1-13-14 [22]

Final ruling:

This case was converted to a case under Chapter 7 on January 23, 2014. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

43. 13-28494-D-13 JESSE/RODELIZA DELEON CONTINUED OBJECTION TO
RDG-1 CONFIRMATION OF PLAN BY RUSSELL
D. GREER
12-20-13 [38]