

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

February 18, 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.	13-29901-D-13 CSL-3	JUANITO/VIRGIE PERALTA	MOTION TO VALUE COLLATERAL OF JPMORGAN CHASE BANK, N.A. 1-7-14 [38]
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Final ruling:

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

2. 13-33403-D-13 MARGARITA RAMIREZ MOTION TO CONFIRM PLAN
LT-2 1-9-14 [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.

3. 08-24504-D-13 BENNETT/KAREN FERNANDES MOTION TO VALUE COLLATERAL OF
JDP-1 BANK OF AMERICA, N.A.
1-8-14 [85]

Final ruling:

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

4. 11-49104-D-13 PONN SANN MOTION TO MODIFY PLAN
LMT-6 12-31-13 [77]

5. 11-24613-D-13 GUILLERMO/CECILIA YADAO MOTION TO MODIFY PLAN
MOT-3 1-3-14 [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.

6. 12-30717-D-13 ROBERT/KELLY STEWART MOTION TO MODIFY PLAN
DN-4 12-31-13 [53]

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.

7. 13-35320-D-13 HERBERT ALEXANDER OBJECTION TO CONFIRMATION OF
RDG-2 PLAN BY RUSSELL D. GREER
1-22-14 [23]

8. 09-23128-D-13 RAY/MARY SMITH MOTION TO MODIFY PLAN
ADR-6 12-31-13 [84]

9. 11-41228-D-13 MELISSA BICE-WALTER MOTION TO INCUR DEBT
JCK-4 1-9-14 [53]

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 to incur debt is supported by the record. As such the court will grant the motion to incur debt by minute order. No appearance is necessary.

10. 11-41228-D-13 MELISSA BICE-WALTER MOTION TO MODIFY PLAN
JCK-5 1-9-14 [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.

11. 13-26235-D-13 LAURO QUITORIANO CONTINUED MOTION TO CONFIRM
MOT-2 PLAN
11-25-13 [69]

12. 13-26235-D-13 LAURO QUITORIANO MOTION TO VALUE COLLATERAL OF
MOT-4 CHASE BANK
1-19-14 [85]

Final ruling:

This is the debtor's motion to value collateral of Chase Bank (the "Bank"). The motion will be denied because the moving party failed to serve the Bank in strict compliance with Fed. R. Bankr. P. 7004(h), as required by Fed. R. Bankr. P. 9014(b). The moving party served the Bank by first-class mail to the attention of a corporate officer, whereas service on an FDIC-insured institution must be by certified mail, not first-class mail. This distinction is important. If service on an FDIC-insured institution could be made by first-class mail, as with service on a corporation, partnership, or other unincorporated association that is not an FDIC-insured institution, the distinction in the manner of service made by the two subdivisions of the rule, Fed. R. Bankr. P. 7004(b) and (h), would be superfluous.

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

Final ruling:

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons. First, in a contested matter not otherwise governed by the Federal Rules of Bankruptcy Procedure, relief is to be requested by motion (Fed. R. Bankr. P. 9014(a)), whereas here, there is no actual motion on file, just a notice of motion, filed December 6, 2013, and a notice of confirmation hearing, filed January 13, 2014. Second, the moving parties did not originally set the matter for hearing, as required by LBR 9014-1(a), instead filing only the notice of motion, which purported to require parties objecting to the plan to request a hearing. Third, the notice of motion provided incorrect information about the deadline to object to the plan, stating that objections must be filed and served within 21 days of the mailing of the notice, whereas the correct time to file written opposition to a motion is 14 days prior to the hearing date (LBR 9014-1(f)(1)(B).) Fourth, the notice of confirmation hearing (which did describe the appropriate 14-day deadline) was served only 36 days prior to the hearing date, rather than 42 days, as required by LBR 3015-1(d)(1) and applicable rules. Fifth, the notice of motion did not contain a docket control number, as required by LBR 9014-1(c)(1). By the time of filing of the notice of confirmation hearing, the court had cautioned the moving parties' counsel, in connection with a motion to value collateral, of the need to use docket control numbers; thus, the notice of confirmation hearing contained a docket control number, GPH-1. However, the proof of service contained a different docket control number, GPH-2, which does not comport with LBR 9014-1(c)(4). Next, with a single exception, the moving parties failed to serve any 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). Finally, the moving parties failed to serve Asset Acceptance LLC, listed on their Schedule F as being owed \$25,051, at all, as required by Fed. R. Bankr. P. 2002(b).

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

Final ruling:

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

15. 12-22744-D-13 CLYDE/GAYLE WILSON MOTION TO APPROVE LOAN
PGM-8 MODIFICATION
1-20-14 [238]

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 to approve loan modification is supported by the record. As such the court will grant the motion to approve loan modification by minute order. No appearance is necessary.

16. 09-31047-D-13 WALTER TORRES AND DELMY MOTION TO MODIFY PLAN
CJY-3 GONZALEZ 1-13-14 [47]

Final ruling:

The relief requested in the motion is supported by the record and no timely opposition to the motion has been filed. Accordingly, the court will grant the motion by minute order and no appearance is necessary. The moving party is to lodge an order confirming the plan, amended plan, or modification to plan, and shall use the form of order which is 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. 13-31953-D-13 ALBERTO CHAN MOTION TO VALUE COLLATERAL OF
SJS-3 CORNWELL TECH CREDIT
1-17-14 [49]

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.

18. 12-31559-D-13 ANDRE/SANDRA DE VOS MOTION TO MODIFY PLAN
DMR-1 1-2-14 [55]

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.

19. 12-31560-D-13 ARMANDO/LINDA MARTINEZ MOTION TO MODIFY PLAN
DMR-1 1-2-14 [29]

20. 11-26864-D-13 ROBERT/SUZAN CUNNINGHAM MOTION FOR RELIEF FROM
SW-1 AUTOMATIC STAY AND/OR MOTION
WELLS FARGO BANK, N.A. VS. FOR RELIEF FROM CO-DEBTOR STAY
1-23-14 [32]

Final ruling:

Motion withdrawn by moving party. Matter removed from calendar.

21. 12-22966-D-13 DINA HARRIS-WILLIAMS MOTION TO MODIFY PLAN
JCK-5 1-15-14 [62]

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. 11-27668-D-13 RAYMOND/GLENNA STEWART MOTION FOR RELIEF FROM
APN-1 AUTOMATIC STAY
SANTANDER CONSUMER USA, INC. 1-9-14 [35]
VS.

Final ruling:

This matter is resolved without oral argument. This is Santander Consumer USA, Inc.'s motion for relief from automatic stay. The court's records indicate that no timely opposition has been filed. The motion along with the supporting pleadings demonstrate that there is no equity in the subject property and debtors are not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. Accordingly, the court will grant relief from stay by minute order. As the debtors are not making post-petition payments and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). There will be no further relief afforded. No appearance is necessary.

23. 13-31768-D-13 MARIBEL/RAMON AGUILAR MOTION TO CONFIRM PLAN
ALB-3 1-10-14 [58]

24. 14-20173-D-13 DEANN STEWARD MOTION TO VALUE COLLATERAL OF
CAH-1 AMERICAN HONDA FINANCE
CORPORATION
1-17-14 [8]

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.

25. 13-36179-D-13 ROMEO/JENNY HERNANDEZ MOTION TO VALUE COLLATERAL OF
JCK-1 OCWEN LOAN SERVICING
1-17-14 [16]

Final ruling:

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

26. 09-40480-D-13 CHRISTIAN/LINDA BOSS MOTION TO MODIFY PLAN
DN-6 1-8-14 [88]

27. 12-30481-D-13 MARYLYN GRIST MOTION TO APPROVE LOAN
RAC-2 MODIFICATION
1-21-14 [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 to approve loan modification is supported by the record. As such the court will grant the motion to approve loan modification by minute order. No appearance is necessary.

28. 10-28183-D-13 LANCE REDFEARN MOTION FOR RELIEF FROM
SW-1 AUTOMATIC STAY
WELLS FARGO BANK, N.A. VS. 1-16-14 [57]

29. 13-33386-D-13 WILMER/IRVINE JOHNSON CONTINUED OBJECTION TO
RDG-1 CONFIRMATION OF PLAN BY TRUSTEE
RUSSELL D. GREER
12-9-13 [25]

30. 13-35390-D-13 PAUL/KIMBERLY CAVA OBJECTION TO CONFIRMATION OF
SW-2 PLAN BY WELLS FARGO BANK, N.A.
1-8-14 [35]

31. 11-28193-D-13 DONALD/DARLENE MEYER MOTION TO MODIFY PLAN
JCK-5 1-15-14 [72]

Final ruling:

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

32. 10-29596-D-13 VIRGIL/RHONDA HOUSE MOTION TO MODIFY PLAN
JCK-8 1-9-14 [101]

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.

33. 13-32499-D-13 TERRI WRIGHT-MCDANIEL MOTION TO CONFIRM PLAN
SJS-1 12-16-13 [26]

34. 13-33901-D-13 RUBY LIPTACK CONTINUED OBJECTION TO
RDG-1 CONFIRMATION OF PLAN BY RUSSELL
D. GREER
12-20-13 [15]

35. 13-35401-D-13 YVONNE BANKS CONTINUED MOTION TO VALUE
DN-1 COLLATERAL OF OCWEN LOAN
SERVICING
1-7-14 [16]
36. 13-35513-D-13 ANDRES SANCHEZ OBJECTION TO CONFIRMATION OF
KSW-1 PLAN BY SETERUS, INC.
1-29-14 [26]
37. 11-24639-D-13 PHILLIP/AIDA MILLER MOTION TO INCUR DEBT
CJY-3 2-4-14 [86]
38. 11-20490-D-13 ROBERT/GINA DAVIS CONTINUED MOTION TO MODIFY PLAN
DMR-1 12-26-13 [76]

39. 13-35390-D-13 PAUL/KIMBERLY CAVA
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
1-27-14 [49]

40. 13-34293-D-13 WILLIAM BUDREWICZ
BHT-1
U.S. BANK, N.A. ND VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
2-3-14 [32]