

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Modesto, California

March 24, 2015 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. | 14-90702-D-13 | LORENZO OJEDA AND IRMA | MOTION TO CONFIRM PLAN |
| | TOG-4 | MEDINA | 2-7-15 [105] |

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.

2. 15-90002-D-13 KHALIL RAZZAQUI
RDG-1
OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
2-20-15 [14]

3. 13-92204-D-13 JORGE HERNANDEZ AND ANA
TOG-2 PEREIRA
MOTION TO MODIFY PLAN
2-4-15 [42]

4. 11-90511-D-13 ARTHUR/KATHERINE MARTIN
DCJ-2
MOTION TO MODIFY PLAN
2-10-15 [49]

5. 12-90213-D-13 JOHN/PAMELA HACKER
SDM-4
MOTION TO MODIFY PLAN
2-5-15 [62]

Final ruling:

This is the debtors' motion to confirm a modified chapter 13 plan. The motion will be denied for the following reasons: (1) the moving parties failed to serve the IRS at its address on the Roster of Governmental Agencies, as required by LBR 2002-1(a); and (2) the moving parties failed to serve Citibank (South Dakota) NA, listed on their Schedule D, at all, as required by Fed. R. Bankr. P. 2002(b). As a result of these service defects, the motion will be denied by minute order. No appearance is necessary.

6. 10-91228-D-13 KIRK/FERNANDA PETERSON MOTION TO APPROVE LOAN
SDM-7 MODIFICATION
2-10-15 [108]

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.

7. 15-90029-D-13 ALAN KWIATEK MOTION TO VALUE COLLATERAL OF
TOG-3 REAL TIME SOLUTIONS
2-25-15 [24]

Final ruling:

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

8. 10-94832-D-13 ANDRES/VIRGINIA DIAZ MOTION TO MODIFY PLAN
CJY-1 2-17-15 [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.

9. 10-94832-D-13 ANDRES/VIRGINIA DIAZ MOTION FOR COMPENSATION BY THE
CJY-2 LAW OFFICE OF FRIEND YOUNGER,
PC FOR JAMES D. PITNER,
DEBTORS' ATTORNEY(S)
2-18-15 [51]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

10. 14-91662-D-13 RAUL/ANA VELA
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
2-20-15 [24]

Final ruling:

The objection will be overruled as moot. The debtors filed an amended plan on March 11, 2015, making this objection moot. As a result the court will overrule the objection without prejudice by minute order. No appearance is necessary.

11. 14-91662-D-13 RAUL/ANA VELA
SDM-1

MOTION TO VALUE COLLATERAL OF
BANK OF THE WEST
2-12-15 [14]

Final ruling:

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

12. 14-91662-D-13 RAUL/ANA VELA
SDM-2

MOTION TO VALUE COLLATERAL OF
BANK OF THE WEST
2-12-15 [19]

Final ruling:

This is the debtors' motion to value collateral of Bank of the West (the "Bank"). The motion will be denied because it is duplicative of the motion on this calendar as DC No. SDM-1. Both motions state repeatedly that the collateral sought to be valued is a "Second Deed of Trust" on the debtors' residence. The only difference between the two motions is that DC No. SDM-1 states that the amount of the Second Deed of Trust is \$26,174.09, whereas DC No. SDM-2 states that the amount of the Second Deed of Trust is \$18,815.97. Although it appears possible the debtors actually intend to value a third position deed of trust, there is no mention in the moving papers of a third position deed of trust; therefore, the moving papers are insufficient to accurately inform the Bank or the court of the nature of the relief requested.

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

13. 14-90971-D-13 BRUCE/CASEY SNIDER
LRR-4

MOTION TO CONFIRM PLAN
2-4-15 [68]

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.

14. 13-91372-D-13 TODD/ROSIE JONES
PLG-4

MOTION TO MODIFY PLAN
2-6-15 [53]

15. 15-90078-D-13 RICK/MARVELYN SOUZA
TOG-1

MOTION TO VALUE COLLATERAL OF
BANK OF AMERICA, N.A.
2-20-15 [16]

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.

16. 14-91187-D-13 KENNETH/MAUREEN YAJKO
SJS-1

MOTION TO CONFIRM PLAN
2-3-15 [36]

17. 14-91487-D-13 ALMA LINTA
CAH-3

MOTION TO INCUR DEBT
2-25-15 [30]

Final ruling:

This is the debtor's motion to incur debt for the purpose of entering into a mortgage loan modification. The motion will be denied because the notice of motion gives the location of the hearing as the court's Modesto address in the caption but as the Sacramento address in the text. ["The date of the hearing is on March 24, 2015 at 10:00 a.m., in front of the Honorable Robert S. Bardwil. The court location is 501 I Street, 7th floor, Courtroom 28, Sacramento CA 95814." Notice, at 2:7-9.] The motion was brought pursuant to LBR 9014-1(f)(2), with notice that opposition is to be presented at the hearing. In these circumstances, the discrepancy in the addresses is especially significant.

As an aside, the court notes that the motion states the loan modification is reasonable and necessary since it involves the debtor's primary residence, whereas according to the debtor's schedules, the property is a rental property.

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

18. 12-91095-D-13 FELIPE/CARMEN HERCULES MOTION FOR COMPENSATION BY THE
CJY-3 LAW OFFICE OF FRIEND YOUNGER PC
FOR JAMES D. PITNER, DEBTORS'
ATTORNEY(S)
2-19-15 [115]

Final ruling:

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion by minute order. No appearance is necessary.

19. 14-91596-E-7 TIMOTHY BROWN MOTION TO EXTEND DEADLINE TO
MDM-1 FILE A COMPLAINT OBJECTING TO
DISCHARGE OF THE DEBTOR
2-18-15 [52]

Final ruling:

This case was converted to a Chapter 7 on March 3, 2015 and the case has been transferred to Department E. As such, the hearing on this motion is continued to April 16, 2015 at 10:30 a.m. to be heard by the Hon. Ronald E. Sargis. No appearance is necessary on March 24, 2015.

20. 14-91510-D-13 DIANE MORROW MOTION TO CONVERT CHAPTER 13 TO
DDM-3 CHAPTER 11 CASE
3-5-15 [55]

Final ruling:

This is the debtor's motion to convert this chapter 13 case to a case under chapter 11. The motion was brought pursuant to LBR 9014-1(f)(2); thus, ordinarily, the court would entertain opposition, if any, at the hearing. However, the court is not prepared to consider the motion at this time for the following reasons: (1) with one exception, the moving party failed to serve any of the creditors who have filed claims in this case at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g)(1); (2) the moving party failed to serve Tuolumne County Prop. Tax, which has not filed a proof of claim in this case, at its address as listed on the debtor's Schedule D, as required by Fed. R. Bankr. P. 2002(g)(2); (3) the moving party failed to serve the IRS and the Franchise Tax Board at their addresses on the Roster of Governmental Agencies, as required by LBR 2002-1; and (4) the moving party served only the notice of hearing, and not the motion or supporting documents, on general creditors, whereas the notice of hearing provided insufficient information to enable interested parties to determine whether to oppose the motion; thus, service of the notice only was not in compliance with LBR 9014-1(d)(4).

The hearing will be continued to April 21, 2015, at 10:00 a.m. The moving party shall, no later than April 7, 2015, file a notice of continued hearing and serve it, together with the motion and supporting documents, (1) on all creditors filing proofs of claim in this case at the addresses on their proofs of claim; (2) on Tuolumne County Prop. Tax at its address as listed on the debtor's Schedule D; (3) on the IRS and Franchise Tax Board at their addresses on the Roster of

Governmental Agencies; and (4) on all creditors who were previously served with the notice of hearing only. The moving party may serve the notice of continued hearing only on the United States Trustee, the chapter 13 trustee, and those parties requesting notice (that is, on parties previously served with the motion and supporting documents). The notice of continued hearing shall be a notice pursuant to LBR 9014-1(f)(2) (no written opposition required).

The hearing will be continued by minute order. No appearance is necessary on March 24, 2015.

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| 21. | 10-90411-D-13 | GEOFFREY ASHCROFT AND CJY-1 | KATHRYN CUMMINGS | MOTION TO INCUR DEBT 3-9-15 [83] |
| 22. | 10-91425-D-13 | ROBERT/VANESSA PEREZ JDP-2 | | MOTION TO APPROVE LOAN MODIFICATION 3-10-15 [50] |
| 23. | 09-93640-D-13 | ALVIN/MYESIA HOFFPAUIR CJY-1 | | MOTION TO VALUE COLLATERAL OF U.S. BANK, N.A. 3-3-15 [124] |

24. 10-90042-D-13 GEORGE/KELLY CERNY MOTION TO VALUE COLLATERAL OF
CJY-9 BANK OF AMERICA, N.A.
3-5-15 [135]
25. 12-91744-D-13 HENRIK YAGHOUBI BABRUD MOTION TO INCUR DEBT
JCK-4 AND JAKLIN POURTARVIRDI 3-6-15 [80]
26. 15-90166-D-13 CONNIE GONZALEZ MOTION TO VALUE COLLATERAL OF
CJY-1 JPMORGAN CHASE BANK, N.A.
3-9-15 [8]
27. 15-90167-D-13 BERNADETTE QUILLES MOTION TO VALUE COLLATERAL OF
CJY-1 JPMORGAN CHASE BANK, N.A.
3-9-15 [8]

28. 11-93675-D-13 RAQUEL CORONA
CJY-3

MOTION TO VALUE COLLATERAL OF
NATIONSTAR MORTGAGE, LLC
3-3-15 [79]

29. 14-90998-D-13 DEBRA TIGNER
CJY-1

MOTION TO APPROVE LOAN
MODIFICATION
2-27-15 [19]