

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Modesto, California

April 2, 2019 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.	18-90001-D-13	DAVID/STEFFANI LUCAS	MOTION FOR RELIEF FROM
	RPZ-1		AUTOMATIC STAY AND/OR MOTION
	DEUTSCHE BANK NATIONAL TRUST		FOR RELIEF FROM CO-DEBTOR STAY
	COMPANY VS.		2-19-19 [49]

Final ruling:

This matter is resolved without oral argument. This is Deutsche Bank National Trust Company's motion for relief from automatic stay. The court 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 the property is not necessary for an effective reorganization. Accordingly, the court finds there is cause for granting relief from stay. The court will grant relief from stay as to debtors and any co-debtor by minute order. There will be no further relief afforded. No appearance is necessary.

2. 18-90908-D-13 HIRAM KEMP
DCJ-2

MOTION TO CONFIRM PLAN
2-18-19 [26]

Final ruling:

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons. First, the plan proposes to pay \$0 on the claim of the Franchise Tax Board, filed by the Board at \$17,865 secured, whereas the moving party has failed to file a motion to value the Board's collateral, as required by LBR 3015-1(i).

Second, the moving party filed his schedules a month into the case and when he did so, he included 10 creditors not listed on the master address list he filed with his petition. These new creditors include creditors holding secured claims in the amounts of \$108,000 and \$300,000, respectively, and eight general unsecured creditors. When the moving party filed his schedules, he failed to file an amended master address list, such that the court's creditor list, as reflected on the court's website for this case and on the PACER matrix, does not include these creditors. Although the moving party served the present motion on these creditors, because they have not been added to the master address list, they will not receive notices served by the Bankruptcy Noticing Center or by creditors in the case.

It is the moving party's responsibility to serve the motion on all creditors, as he did. However, he also has a responsibility to be sure his master address list filed includes "each entity included . . . on Schedules D, E/F, G, and H" Fed. R. Bankr. P. 1007(a)(1). Thus, the plan cannot be confirmed because the debtor has failed to comply with his duty to file a complete list of creditors, as required by § 521(a)(1)(A), as implemented by Fed. R. Bankr. P. 1007(a)(1), and thus, has not complied with § 1325(a)(1).

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

3. 18-90714-D-13 JARED MEEK AND LAUREN
BSH-1 LONGWELL

MOTION TO VALUE COLLATERAL OF
CHASE AUTO
2-21-19 [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.

4. 18-90714-D-13 JARED MEEK AND LAUREN MOTION TO VALUE COLLATERAL OF
BSH-3 LONGWELL FINANCIAL PACIFIC LEASING, INC.
2-22-19 [41]

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.

5. 18-90714-D-13 JARED MEEK AND LAUREN MOTION TO VALUE COLLATERAL OF
BSH-4 LONGWELL LES SCHWAB TIRE CENTERS OF
CALIFORNIA, INC.
2-22-19 [45]

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.

6. 18-90923-D-13 ESTHER CORTEZ MOTION TO CONFIRM PLAN
BSH-1 2-7-19 [27]

Final ruling:

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied for two reasons. First, the moving party failed to serve all creditors, as required by Fed. R. Bankr. P. 2002(a)(9). The moving party failed to serve the creditor listed on her Schedule G as party to a residential rental agreement with the debtor. 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 to unexpired leases with the debtor.

Second, the debtor failed to comply with Fed. R. Bankr. P. 1007(a)(1), which requires a debtor to include on his or her master address list the names and addresses of all parties included or to be included on his or her schedules, including Schedule G. As a result, the court's creditor list, as reflected on the court's website for this case and on the PACER matrix, does not include this creditor. Because this creditor was not included on the master address list, it will not receive notices served by the Bankruptcy Noticing Center or by creditors in the case.

It is the moving party's responsibility to serve the motion on all creditors, which, presumably, she will do when she files another motion. However, she also has a responsibility to be sure her master address list includes "each entity included . . . on Schedules D, E/F, G, and H" Fed. R. Bankr. P. 1007(a)(1). Thus, the

plan cannot be confirmed because the debtor has failed to comply with her duty to file a complete list of creditors, as required by § 521(a)(1)(A), as implemented by Fed. R. Bankr. P. 1007(a)(1), and thus, has not complied with § 1325(a)(1).

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

7. 18-90435-D-13 FELIX CASTRO HERRERA AND CONTINUED OBJECTION TO CLAIM OF
RDG-2 CHRISTINA CASTRO STANISLAUS COUNTY TAX
COLLECTOR, CLAIM NUMBER 13
1-11-19 [43]

Final ruling:

This is the trustee's objection to the claim of the Stanislaus County Treasurer-Tax Collector, Claim No. 13 on the court's claims register. On March 4, 2019, the Tax Collector filed a withdrawal of the claim. Because the claim has been withdrawn, the objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

8. 16-90775-D-13 KANDACE ATKINS MOTION TO MODIFY PLAN
BSH-7 2-14-19 [76]

Final ruling:

This is the debtor's motion to confirm a modified chapter 13 plan. The motion will be denied for two reasons. First, the moving party failed to serve all creditors, as required by Fed. R. Bankr. P. 2002(a)(9). The moving party failed to serve a creditor listed on her Schedule G as party to a residential lease with the debtor. 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 to unexpired leases with the debtor.

Second, the debtor failed to comply with Fed. R. Bankr. P. 1007(a)(1), which requires a debtor to include on his or her master address list the names and addresses of all parties included or to be included on his or her schedules, including Schedule G. Here, the moving party scheduled the creditor's name without an address. As a result, the court's creditor list, as reflected on the court's website for this case and on the PACER matrix, does not include this creditor's address. Because this creditor's address was not included on the master address list, the creditor will not receive notices served by the Bankruptcy Noticing Center or by creditors in the case. Unless the debtor demonstrates she has no last known address for this creditor and cannot obtain one by means of a reasonable search, she must add the creditor to her master address list, as required by Fed. R. Bankr. P. 1007(a), and must serve any future motions to confirm a plan on this creditor.

It is the moving party's responsibility to serve the motion on all creditors, which, presumably, she will do when she files another motion. However, she also has a responsibility to be sure her master address list includes "each entity included . . . on Schedules D, E/F, G, and H" Fed. R. Bankr. P. 1007(a)(1). Thus, the plan cannot be confirmed because the debtor has failed to comply with her duty to file a complete list of creditors, as required by § 521(a)(1)(A), as implemented by Fed. R. Bankr. P. 1007(a)(1), and thus, has not complied with § 1325(a)(1).

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

9. 17-90979-D-13 RORY/SHAMEEMA STEVENS MOTION TO MODIFY PLAN
RKW-13 2-25-19 [168]

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.

10. 19-90047-D-13 ARTHUR MACIAS OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
3-11-19 [25]

11. 19-90055-D-13 MIGUEL IBARRA OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
3-11-19 [41]

12. 19-90055-D-13 MIGUEL IBARRA OBJECTION TO CONFIRMATION OF
EAT-1 PLAN BY LAKEVIEW LOAN
SERVICING, LLC
3-13-19 [44]

13. 18-90465-D-13 MARK/SHANNON CIMOLI
APN-1
FORD MOTOR CREDIT COMPANY
VS.

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
2-6-19 [72]

14. 18-90672-D-13 ENNIE WILLIAMS
BSH-3

CONTINUED MOTION TO CONFIRM
PLAN
2-5-19 [54]