

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Modesto, California

April 18, 2017 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.	17-90001-D-13 JOHN/BRIANNE WALSH MSN-1	MOTION TO VALUE COLLATERAL OF PNC BANK, N.A. 2-24-17 [15]
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Final ruling:

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

2. 14-91203-D-13 VAUGHN/GINA BLACK MOTION FOR RELIEF FROM
JHW-1 AUTOMATIC STAY
ACAR LEASING LTD VS. 3-17-17 [31]

Final ruling:

This matter is resolved without oral argument. This is Acar Leasing, Ltd.'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 creditor's interest in the property is adequately protected. Accordingly, the court finds there is cause for granting relief from stay. The court will grant relief from stay and as the debtors are not making post-petition payments, the court will waive FRBP 4001(a)(3). This relief will be granted by minute order. There will be no further relief afforded. No appearance is necessary.

3. 16-90410-D-13 SALVADOR/JACQUIE PEREZ MOTION TO CONFIRM PLAN
JAD-2 3-6-17 [163]

4. 16-90910-D-13 DURLABH GANDHI MOTION TO CONFIRM PLAN
CJY-6 2-20-17 [77]

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.

5. 14-91219-D-13 ADAM/CATHERINE RAZO MOTION TO MODIFY PLAN
CJY-3 3-9-17 [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 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.

6. 15-90124-D-13 ADRIANA MARROQUIN MOTION TO MODIFY PLAN
CJY-1 3-1-17 [22]

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.

7. 17-90031-D-13 JAIME SANCHEZ MOTION TO CONFIRM PLAN
TOG-2 2-24-17 [27]

8. 16-90138-D-13 SANDRA MUNOZ MOTION FOR RELIEF FROM
MSK-5 AUTOMATIC STAY
CHAMPION MORTGAGE COMPANY 3-16-17 [38]
VS.

9. 16-90545-D-13 MICHELLE TETENS MOTION TO SELL
CJY-2 3-22-17 [44]

10. 17-90145-D-13 NICOLE MORADKHANIAN MOTION FOR RELIEF FROM
SSA-1 AUTOMATIC STAY AND/OR MOTION
VELMA HOWELL VS. FOR ADEQUATE PROTECTION
3-17-17 [15]

11. 16-90946-D-13 DIANE HATTON MOTION FOR REMAND
17-9001 LMK-1 3-21-17 [13]
VENTURES TRUST 2013-I-H-R BY
MCM CAPITAL PARTNERS, V.

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 with the exception of the moving party's request for an award of attorney's fees and costs, which is a matter within the court's discretion. The moving party shall submit a proposed order. No appearance is necessary.

12. 17-90146-D-13 LORENA LARA MOTION FOR RELIEF FROM
SC-1 AUTOMATIC STAY
3-21-17 [15]
BRECKENRIDGE PROPERTY FUND
2016, LLC VS.

Final ruling:

This case was dismissed on March 30, 2017. As a result the motion will be denied by minute order as moot. No appearance is necessary.

13. 16-91153-D-13 RICARDO MARTINEZ AND EVA MOTION TO VALUE COLLATERAL OF
MSN-1 HERNANDEZ BANK OF AMERICA
2-28-17 [35]

Final ruling:

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

14. 15-90769-D-13 DIANA PAULS MOTION TO INCUR DEBT
SJD-2 3-10-17 [35]

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 of a student loan is supported by the record. As such the court will grant the motion to obtain a student loan by minute order. No appearance is necessary.

15. 12-90571-D-13 MACKIE/MARILYN JAMISON MOTION TO SUBSTITUTE MARILYN
CJY-2 DIANE JAMISON AS THE
REPRESENTATIVE FOR MACKIE JAY
JAMISON AND TO EXCUSE DEBTOR
MACKIE JAY JAMISON FROM
COMPLETING 1328 CERTIFICATE OR
522(Q) EXEMPTION CERTIFICATE
3-10-17 [43]

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 to substitute Marilyn Diane Jamison as the representative for Mackie Jay Jamison and to excuse debtor Mackie Jay Jamison from completing 1328 Certificate or 522(q) Exemption Certificate. Moving party is to submit an appropriate order. No appearance is necessary.

16. 16-90371-D-13 MATTHEW METTLER MOTION TO MODIFY PLAN
JM-1 2-17-17 [27]

Final ruling:

This is the debtor's motion to confirm a first modified chapter 13 plan. On March 31, 2017, the debtor filed a Notice of Withdrawal of the motion, as well as a second modified plan. The purported withdrawal was ineffective. Because opposition had been filed, the debtor did not have the right to unilaterally withdraw the motion. Fed. R. Civ. P. 41(a), incorporated herein by Fed. R. Bankr. P. 7041. The court deduces from the purported withdrawal, however, that the debtor does not wish to contest the trustee's opposition to the motion. As a result, the motion will be denied by minute order. No appearance is necessary.

17. 14-91374-D-13 ROMULO GUZMAN MOTION TO MODIFY PLAN
TOG-4 3-7-17 [38]

18. 13-91078-D-13 DAVID/JENNIFER VOLFI
BSH-7

MOTION TO MODIFY PLAN
2-27-17 [85]

19. 14-91590-D-13 SCOTT/TAMARA WEBB
CJY-1

OBJECTION TO CLAIM OF INTERNAL
REVENUE SERVICE, CLAIM NUMBER
7-2
2-15-17 [29]

Tentative ruling:

This is the debtors' objection to the amended claim of the Internal Revenue Service ("IRS"), Claim No. 7-2 (the "claim") on the court's claims register. The IRS has not filed opposition. However, the debtors have failed to submit admissible evidence establishing the factual allegations of their objection and demonstrating that they are entitled to the relief requested, as required by LBR 9014-1(d)(7). In addition, the debtors have failed to submit admissible evidence sufficient to overcome the prima facie validity afforded the claim by Fed. R. Bankr. P. 3001(f).

The debtors object to that portion of the claim that is for taxes and interest for tax year 2013, a total of \$2,660.87. (The debtors do not object to the remainder of the claim.) The proof of claim indicates the liability is "pending examination." The proof of claim was filed two years ago, on March 17, 2015. The debtors contend their 2013 tax return shows they were entitled to a refund for that year. Thus, apparently, the argument is that because they were entitled to a refund, they could not owe taxes for that year.

In support of the objection, the debtors have filed a copy of a tax return their attorney says is a true and correct copy. They have not filed admissible evidence authenticating the return. The copy filed with the objection appears to be signed by the debtors but it is not dated and there is no evidence it has been filed with the IRS. The court intends to continue the hearing to permit the debtors to supplement the record, so as to authenticate the tax return, provide admissible evidence as to whether it has been filed with the IRS, and if so, when, and as to whether or not they have received the refund they claim to be entitled to. The debtors shall also file a notice of continued hearing and serve it, together with their supplemental documents, on the IRS at the three required addresses.

The court will hear the matter.

20. 16-90219-D-13 SHARON HAMILTON CONTINUED MOTION TO CONFIRM
DCJ-2 PLAN
2-20-17 [69]

21. 17-90145-D-13 NICOLE MORADKHANIAN OBJECTION TO CONFIRMATION OF
SSA-2 PLAN BY VELMA HOWELL
3-24-17 [24]

Final ruling:

This is the objection of Velma Howell, Trustee of the Howell Revocable Trust, to confirmation of the debtor's proposed chapter 13 plan. Pursuant to the Notice of Chapter 13 Bankruptcy Case filed in this case, objections to confirmation are to be set for May 16, 2017, at 10:00 a.m. Accordingly, the hearing on this objection will be continued by minute order to that date and time. No appearance is necessary on April 18, 2017. (The debtor and other parties-in-interest are cautioned that this continuance does not apply to Ms. Howard's motion for relief from stay, set for April 18, 2017 at 10:00 a.m. or the trustee's motion to dismiss this case, set for April 18, 2017 at 10:30 a.m.)

22. 17-90065-D-13 JUAN LOPEZ OBJECTION TO CONFIRMATION OF
RDG-2 PLAN BY RUSSELL D. GREER
3-27-17 [26]

23. 17-90069-D-13 PAMELA MCCOLLOCH OBJECTION TO CONFIRMATION OF
WJS-2 PLAN BY JOAN M. AROZ
3-28-17 [28]

Final ruling:

The hearing on this objection is continued to May 2, 2017 at 10:00 a.m. to be heard with the objecting party's motion for relief from stay. No appearance is necessary on April 18, 2017.

24. 12-90481-D-13 GREGORY/DELLA NIELSEN
DCJ-5

MOTION TO SELL
3-28-17 [65]

25. 17-90086-D-13 LUCIA CORDEIRO
RDG-2

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
3-27-17 [27]