

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Sacramento, California

**May 7, 2019 at 10:00 a.m.**

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**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.	18-20805-D-13	GRANT BROOKS	MOTION TO CONFIRM PLAN
	JCK-6		3-22-19 [124]

**Final ruling:**

**This case was dismissed on April 17, 2019. As a result the motion will be denied by minute order as moot. No appearance is necessary.**

2.	19-21005-D-13	ELINOR BANKS	OBJECTION TO CONFIRMATION OF
	RDG-1		PLAN BY RUSSELL D. GREER
			4-8-19 [18]

**Final ruling:**

**This is the trustee's objection to confirmation of the debtor's proposed chapter 13 plan. On April 11, 2019, the debtor filed an amended plan and a motion to confirm it. As a result of the filing of the amended plan, the present objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.**

3. 19-20808-D-13 KARL VALDEZ OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D. GREER  
4-8-19 [14]

4. 18-26909-D-13 WILLIAM CRONIN MOTION TO CONFIRM PLAN  
DCJ-2 3-18-19 [49]

5. 19-20616-D-13 HASSAN/JASMINE ROBINSON OBJECTION TO CONFIRMATION OF  
JHW-1 PLAN BY TD AUTO FINANCE, LLC  
3-21-19 [15]

**Final ruling:**

This is the objection of TD Auto Finance, LLC to confirmation of the debtors' originally-proposed chapter 13 plan. On April 25, 2019, the debtors filed an amended plan and a motion to confirm it. As a result of the filing of the amended plan, the present objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

6. 19-20616-D-13 HASSAN/JASMINE ROBINSON OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D. GREER  
4-8-19 [20]

**Final ruling:**

This is the trustee's objection to confirmation of the debtors' originally-proposed chapter 13 plan. On April 25, 2019, the debtors filed an amended plan and a motion to confirm it. As a result of the filing of the amended plan, the present objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

**Final ruling:**

On April 5, 2019, the debtor's attorney filed a document entitled Substitution of Attorney, which has been calendared as a motion to substitute attorney. By the substitution, which is signed by the debtor and his attorney, the debtor purports to substitute himself in the case in place of Sagaria Law, P.C.

The noticing of the hearing was incorrect and insufficient. The debtor's attorney initially signed and filed a Notice of Hearing Re: Substitution of Attorney and served it, together with the substitution, on the debtor, the chapter 13 trustee, and the Office of the U.S. Trustee. The original and a first amended notice of hearing purported to set the hearing for an incorrect date, time, and place. A second amended notice of hearing set the matter for this date and time in the caption but with an incorrect date in the text. A third amended notice of hearing listed this date and time in both the caption and the text, but with an incorrect address on both (500 I Street). There is no evidence the second or third amended notice was served on anyone, whereas it should have been served on the debtor, the chapter 13 trustee, the U.S. Trustee, and all other parties who have appeared (LBR 2017-1(e)), which in the court's view, includes all creditors.

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

**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 moving party failed to serve all creditors, as required by Fed. R. Bankr. P. 2002(a)(9). The moving party failed to serve Shelvie Crittendon, listed on the debtor's Schedule D as being owed \$11,400 secured by the debtor's vehicle, at all. The debtor also failed to serve the U.S. Dept. of Education, listed on her Schedule E/F as holding over \$92,000 in claims, at its address on the Roster of Governmental Agencies, as required by LBR 2002-1(b), and failed to serve it through the U.S. Attorney, as required by LBR 2002-1(a).

Second, the debtor failed to list Shelvie Crittendon at all and failed to list the U.S. Dept. of Education at its required addresses on her master address list, as required by Fed. R. Bankr. P. 1007(a)(1). 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 Shelvie Crittendon at all and does not include the U.S. Dept. of Education at the correct addresses, and these creditors will not receive notices served by the Bankruptcy Noticing Center or by the trustee or creditors in the case. Because the debtor has failed to comply with her duty to file a complete and accurate list of creditors, as required by § 521(a)(1)(A), as implemented by Fed. R. Bankr. P. 1007(a)(1), she has not complied with § 1325(a)(1).

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

9. 18-21534-D-13 HECTOR/MARIA PEREZ MOTION TO CONFIRM PLAN  
BSH-4 3-19-19 [90]

10. 19-20036-D-13 JASWINDER SINGH MOTION TO CONFIRM PLAN  
MJH-1 3-19-19 [18]

11. 19-20738-D-13 FABIAN SPEED OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D. GREER  
4-8-19 [22]

**Final ruling:**

**This case was dismissed on April 23, 2019. As a result the objection will be overruled by minute order as moot. No appearance is necessary.**

12. 18-26043-D-13 ROBERT EVANS CONTINUED MOTION TO CONFIRM  
BSH-1 PLAN  
3-26-19 [37]

13. 17-26044-D-13 CAROLL THOMPSON  
PGM-1

OBJECTION TO NOTICE OF  
POSTPETITION MORTGAGE FEES,  
EXPENSES, AND CHARGES AND/OR  
MOTION FOR COMPENSATION FOR  
PETER MACALUSO, DEBTOR'S ATTORNEY  
3-23-19 [98]

**Final ruling:**

Objection withdrawn by moving party on April 15, 2019. Matter removed from calendar.

14. 18-27745-D-13 JUAN/MARIA SALAS  
GS-1

MOTION TO CONFIRM PLAN  
3-22-19 [55]

**Final ruling:**

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons: (1) the proofs of service are attached to the notice of hearing and motion instead of being filed separately with a caption, as required by LBR 9004-2(c)(1), (e)(1) and (2) and 9014-1(e)(3); (2) the proofs of service are not signed; that is, the name of the declarant is typed in the space for "Type Name" but not in the space for "Signature" and the space for "Signature" is blank; (3) there is evidence of service of the notice of hearing and motion but not the plan itself;<sup>1</sup> (4) with one exception, the moving parties failed to serve any of the nine creditors filing claims in this case at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g); and (5) the moving parties failed to serve the two creditors who have requested special notice in this case (long before this motion was served) at their designated addresses, as required by the same rule.

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

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1 There is a copy of the plan attached to the motion filed with the court, and therefore, arguably, the proof of service of the motion implicitly includes service of the copy of the plan. However, the motion does not refer to the plan being attached, and thus, the proof of service of the motion is not conclusive as to service of the plan.

15. 19-20749-D-13 MIKE/THELMA DOUGHERTY  
CLH-1

CONTINUED MOTION TO CONFIRM  
PLAN  
3-1-19 [15]

16. 19-20952-D-13 TERRELL CAIN  
RDG-2

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
4-8-19 [21]

17. 17-27365-D-13 VIJAYA/SAROJ GAUNDAR

MOTION TO SUBSTITUTE ATTORNEY  
4-5-19 [32]

**Final ruling:**

On April 5, 2019, the debtors' attorney filed a document entitled Substitution of Attorney, which has been calendared as a motion to substitute attorney. By the substitution, which is signed by the debtors and their attorney, the debtors purport to substitute themselves in the case in place of Sagaria Law, P.C.

The noticing of the hearing was incorrect and insufficient. The debtors' attorney initially signed and filed a Notice of Hearing Re: Substitution of Attorney and served it, together with the substitution, on the debtors, the chapter 13 trustee, and the Office of the U.S. Trustee. The original and a first amended notice of hearing purported to set the hearing for an incorrect date, time, and place. A second amended notice of hearing set the matter for this date, time, and place, but there is no evidence it was served on anyone, whereas it should have been served on the debtors, the chapter 13 trustee, the U.S. Trustee, and all other parties who have appeared (LBR 2017-1(e)), which in the court's view, includes all creditors.

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

18. 18-21171-D-13 EVERETT MARSHALL AND  
LYNETTE HASAN-MARSHALL

MOTION TO SUBSTITUTE ATTORNEY  
4-12-19 [93]

**Final ruling:**

On April 12, 2019, the debtors filed a document entitled Substitution of Attorney, which has been calendared as a motion to substitute attorneys. By the substitution, which is signed by the debtor and his attorney, the debtor purports to substitute himself in the case in place of Sagaria Law, P.C.

The debtors' attorney signed and filed a Notice of Hearing Re: Substitution of Attorney, but there is no evidence the substitution or notice of hearing was served on anyone, whereas it should have been served on the debtors, the chapter 13 trustee, the U.S. Trustee, and all other parties who have appeared (LBR 2017-1(e)), which in the court's view, includes all creditors. In addition, the notice of hearing set the matter for this date and time, but included an incorrect address in both the caption and the text (500 I Street).

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

19. 18-27772-D-13 DAVID MELLA AND MALU MOTION TO CONFIRM PLAN  
RWF-1 CASTRO-MELLA 3-19-19 [21]

20. 19-20773-D-13 TINA JOHNSON MOTION TO VALUE COLLATERAL OF  
PGM-1 FINANCIAL CENTER CREDIT UNION  
4-2-19 [18]

**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.

21. 19-20773-D-13 TINA JOHNSON MOTION TO VALUE COLLATERAL OF  
PGM-2 FINANCIAL CENTER CREDIT UNION  
4-2-19 [23]

**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.

22. 19-20773-D-13 TINA JOHNSON OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D GREER  
4-8-19 [28]

23.	19-20973-D-13 RDG-1	ALBERT/MARY HAYNES	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D GREER 4-8-19 [15]
24.	18-26974-D-13 JCK-2	FERNANDO CANTILLO	MOTION TO MODIFY PLAN 3-26-19 [26]
25.	18-27891-D-13 BSH-3	LAWRENCE/JENNY BOLDON	MOTION TO CONFIRM PLAN 3-21-19 [33]
26.	19-20791-D-13 RDG-1	LOUIS LEMOS	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 4-8-19 [18]



27. 18-24992-D-13 LIDIA QUEZADA  
GSL-2

MOTION TO CONFIRM PLAN  
3-26-19 [116]

**Tentative 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 utilized a PACER matrix for service of the motion that was four and a half months old at the time of service; thus, the moving party failed to serve eight of the eleven creditors filing claims in this case at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g); (2) for the same reason, the moving party failed to serve the attorney who represented the trustee before this case was converted from chapter 7, who holds an administrative claim in the case; and (3) the proof of service does not evidence service on anyone in accordance with the local rule in this district.

The proof of service states the declarant served the documents listed "by method indicated below," but the only method for which the declarant checked the box was "By Electronic Service via ECF," which describes the manner of service as follows:

By electronically transmitting the document(s) listed above to California Northern Bankruptcy Office Court Electronic Document Filing System at [www.ecf.caeb.uscourts.gov](http://www.ecf.caeb.uscourts.gov), from the email [gabe@gsllawoffice.com](mailto:gabe@gsllawoffice.com), at approximately 3:40 pm. To my knowledge, the transmission was reported as complete and without error. See Cal. R. Ct. R. 2.253, 2.255, 2.260.

Certificate of Service, filed March 26, 2019, p. 2. While service by electronic means is authorized in this district, service via the court's ECF system is not. See LBR 7005-1. It is possible creditors were served by mail, as the mailing matrix lists only mailing addresses and no email addresses; however, the declarant did not check the box indicating service was made "By U.S. Mail." Thus, apparently, the moving party relied solely on the Northern District's document filing system and served no one in accordance with this court's local rule.

As a result of these service defects, the motion will be denied. The court will hear the matter.

28. 19-20292-D-13 KIM WALKER  
RDG-1

CONTINUED AMENDED OBJECTION TO  
CONFIRMATION OF PLAN BY RUSSELL  
D GREER  
3-11-19 [22]

29.	18-26909-D-13 RDG-3	WILLIAM CRONIN	CONTINUED MOTION TO DISMISS CASE 4-8-19 [54]
30.	18-26909-D-13 DCJ-3	WILLIAM CRONIN	MOTION TO VALUE COLLATERAL OF CHECK INTO CASH OF CALIFORNIA, INC. 4-23-19 [64]
31.	18-26909-D-13 DCJ-4	WILLIAM CRONIN	MOTION TO VALUE COLLATERAL OF CHECK INTO CASH OF CALIFORNIA, INC. 4-23-19 [70]
32.	18-26909-D-13 DCJ-5	WILLIAM CRONIN	MOTION TO VALUE COLLATERAL OF AMERICAN CREDIT ACCEPTANCE 4-23-19 [74]

33. 18-26909-D-13 WILLIAM CRONIN  
DCJ-6

MOTION TO VALUE COLLATERAL OF  
CALIFORNIA DEPARTMENT OF TAX  
AND FEE ADMINISTRATION  
4-23-19 [78]

34. 16-21939-D-13 LARY/NENA ULEP

MOTION TO SUBSTITUTE ATTORNEY  
4-15-19 [51]

**Final ruling:**

On April 15, 2019, the debtors' attorney filed a document entitled Substitution of Attorney, which has been calendared as a motion to substitute attorney. By the substitution, which is signed by the debtors and their attorney, the debtors purport to substitute themselves in the case in place of Sagaria Law, P.C.

The debtors' attorney signed and filed a Notice of Hearing Re: Substitution of Attorney, but there is no evidence the substitution or notice of hearing was served on anyone, whereas it should have been served on the debtors, the chapter 13 trustee, the U.S. Trustee, and all other parties who have appeared (LBR 2017-1(e)), which in the court's view, includes all creditors.

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

35. 18-24992-D-13 LIDIA QUEZADA  
RDG-3

CONTINUED MOTION TO RECONVERT  
CASE FROM CHAPTER 13 TO CHAPTER  
7  
4-5-19 [127]