

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Modesto, California

June 21, 2016 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.	14-91502-D-13	NATIKA MABRY	MOTION TO MODIFY PLAN
	JCK-2		5-17-16 [23]

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.

2. 16-90303-D-13 JEFFREY AUSTIN
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
5-23-16 [20]

3. 13-91612-D-13 DEBRA MCCONNICO
MSN-2

MOTION TO MODIFY PLAN
5-6-16 [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 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.

4. 13-91612-D-13 DEBRA MCCONNICO
MSN-3

MOTION TO AVOID LIEN OF LVNV
FUNDING LLC
5-6-16 [49]

Final ruling:

This is the debtor's motion to avoid a judicial lien held by LVNV Funding LLC ("LVNV"). The motion will be denied because the moving party failed to serve LVNV in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving party served LVNV (1) through the attorneys who obtained LVNV's abstract of judgment; and (2) at a post office box address with no attention line. The first method was insufficient because the rule requires that a corporation, partnership, or other unincorporated association be served to the attention of an officer, managing or general agent, or agent authorized by appointment or by law to receive service of process, whereas there is no evidence the attorneys who obtained the abstract of judgment are authorized to receive service of process on behalf of LVNV in bankruptcy contested matters pursuant to Fed. R. Bankr. P. 7004(b)(3) and 9014(b). See In re Villar, 317 B.R. 88, 93 (9th Cir. BAP 2004). The second method was insufficient because service on a corporation, partnership, or other unincorporated association must be to the attention of an officer, managing or general agent, or agent for service of process, whereas here, there was no attention line.

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

5. 16-90219-D-13 SHARON HAMILTON OBJECTION TO DEBTOR'S CLAIM OF
RDG-2 EXEMPTIONS
5-9-16 [27]

Final ruling:

The matter is resolved without oral argument. The court's record indicates that no timely opposition/response has been filed. The objection is supported by the record. The court will sustain the trustee's objection to the debtor's claim of exemptions. Moving party is to submit an appropriate order. No appearance is necessary.

6. 16-90120-D-13 DONNA FUHRER MOTION TO CONFIRM PLAN
SJS-2 4-29-16 [23]

Final ruling:

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied because the moving party failed to serve all creditors, as required by Fed. R. Bankr. P. 2002(b). The moving party filed her schedules of creditors one month into the case (pursuant to an order extending time), and when she did, she failed to file an amended master address list. As a result, when the debtor utilized the PACER matrix for service of this motion, she failed to serve Santander Consumer USA, holder of the second deed of trust against her residence, at all.

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

7. 12-92427-D-13 BENJAMIN/STEPHANIE ROSE MOTION TO MODIFY PLAN
MSN-2 5-17-16 [73]

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.

8. 14-90529-D-13 GREGG/KIANDRA WALKER MOTION TO MODIFY PLAN
JAD-6 5-9-16 [94]

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.

9. 12-90440-D-13 MICHELLE JOHNFROE MOTION TO MODIFY PLAN
MSN-1 5-6-16 [31]

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. 16-90040-D-13 SOCORRO CRUZ MOTION TO CONFIRM PLAN
TOG-2 4-29-16 [36]

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.

11. 15-91150-D-13 RICHARD ELLIS MOTION TO CONFIRM PLAN
MDA-2 4-25-16 [53]

Final ruling:

This case was dismissed on April 26, 2016. As a result the motion will be denied by minute order as moot. No appearance is necessary.

12. 11-93852-D-13 DANIEL/EVANGELINE MOTION TO MODIFY PLAN
CJY-1 ALBRECHT 4-27-16 [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 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.

13. 12-92857-D-13 SHAWNA COPLEN MOTION TO MODIFY PLAN
JAD-3 5-2-16 [56]

14. 13-90359-D-13 KENNETH/MARGARET KENNEDY MOTION FOR EXEMPTION FROM
JCK-3 FINANCIAL MANAGEMENT COURSE
5-9-16 [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 for exemption for debtor Margaret Kennedy from financial management course is supported by the record. As such the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

15. 16-90159-D-13 ASHUR SHIBA CONTINUED AMENDED OBJECTION TO
MRG-1 CONFIRMATION OF PLAN BY
CHRISTIANA TRUST
4-28-16 [29]

Final ruling:

Objection withdrawn by moving party. Matter removed from calendar.

16. 16-90162-D-13 KEVIN/NICOLE ARROUZET CONTINUED OBJECTION TO
MDE-1 CONFIRMATION OF PLAN BY U.S.
BANK, N.A.
4-15-16 [18]

17. 16-90265-D-13 ORLANDO LUNA OBJECTION TO CONFIRMATION OF
APN-1 PLAN BY CREDITOR GATEWAY ONE
LENDING AND FINANCE
5-18-16 [19]

Final ruling:

Objection withdrawn by moving party. Matter removed from calendar.

18. 16-90167-D-13 LORENZO OJEDA MOTION FOR COMPENSATION FOR
SSA-4 STEVEN S. ALTMAN, CREDITORS
ATTORNEY(S)
5-23-16 [60]

19. 11-90769-D-13 HENRY/VICKI HOUDA MOTION TO SUBSTITUTE HENRY
CJY-1 HOUDA AS THE REPRESENTATIVE FOR
VICKI S. HOUDA AND/OR MOTION TO
EXCUSE CO-DEBTOR VICKI S. HOUDA
FROM COMPLETING THE 1328/522
CERTIFICATES
5-10-16 [74]

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 substitute Henry Houda as the representative for Vicki S. Houda and motion to excuse co-debtor Vicki S. Houda from completing the certificate required by Bankruptcy Code § 1328 is supported by the record. As such the court will grant the motion. Moving party is to submit an appropriate order. No appearance is necessary.

20. 16-90274-D-13 KERMIT WOODS OBJECTION TO CONFIRMATION OF
RDG-2 PLAN BY RUSSELL D. GREER
5-23-16 [19]

Final ruling:

This case was dismissed on April 24, 2016. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

21. 16-90177-D-13 TROY/CHARIA SHEETS MOTION TO CONFIRM PLAN
MLP-1 5-4-16 [23]

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.

22. 16-90180-D-13 EFREM GRIMES MOTION TO CONFIRM PLAN
MSN-1 5-6-16 [15]

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.

23. 16-90283-D-13 KIT JORY OBJECTION TO CONFIRMATION OF
RDG-2 PLAN BY RUSSELL D. GREER
5-23-16 [34]

Final ruling:

This case was dismissed on May 24, 2016. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

24. 15-90499-D-13 KENNETH/TRACIE THORNE MOTION TO CONFIRM PLAN
DEF-8 5-6-16 [154]

25. 11-93711-D-13 JEFFERY/YOKO MCWILLIAMS MOTION TO VALUE COLLATERAL OF
CJY-3 CITIBANK
6-3-16 [61]
26. 13-90289-D-13 DENNIS/CYNTHIA MASSEY MOTION TO SELL
CJY-1 6-1-16 [34]
27. 11-90694-D-13 AMBRA BILBRO MOTION TO VALUE COLLATERAL OF
CJY-2 WELLS FARGO HOME MORTGAGE
6-3-16 [95]