

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Modesto, California

July 25, 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.	16-90731-D-13	WILLIAM/SHIRLEY BEDWELL	MOTION TO MODIFY PLAN
	MSN-1		6-12-17 [20]

Tentative ruling:

This is the debtors' motion to confirm a modified chapter 13 plan. The motion will be denied because the moving parties failed to serve James Bedwell, their son who is listed on their Schedule H as a co-debtor on a car loan, at a valid address. The moving parties served James Bedwell as follows: "James Bedwell, Clovis, CA," with no street or post office box address. The court takes judicial notice that Clovis is a city having a population of over 100,000. It is not realistic that service using the city and state only was designed to effectuate actual notice.

If the debtors submit admissible evidence that they have no address or last known address for James Bedwell other than "Clovis, CA," and no way of obtaining an address, the court will determine they have substantially complied with their duty under Fed. R. Bankr. P. 1007(a)(1) to list on their master address list the names and addresses of all persons listed on their Schedule H and with their duty under

Fed. R. Bankr. P. 2002(b) to serve all creditors. If they do not, the motion will be denied, or in the alternative, the hearing will be continued to permit the debtors to cure this service defect.

The court will hear the matter.

2.	17-90031-D-13	JAIME SANCHEZ	MOTION TO CONFIRM PLAN
	TOG-3		6-8-17 [78]

3.	14-90738-D-13	SALVADOR LOPEZ	MOTION TO DISMISS CASE AND/OR
	JB-1		MOTION TO CONVERT CASE TO
			CHAPTER 7
			6-14-17 [31]

Tentative ruling:

This is the Franchise Tax Board's motion to dismiss or convert this chapter 13 case to a case under chapter 7 of the Bankruptcy Code. The motion was brought pursuant to LBR 9014-1(f)(1) and no opposition has been filed. However, the court is not prepared to consider the motion because the moving party served only the debtor and the debtor's attorney, and not the chapter 13 trustee or any creditors, as appears to be required by Fed. R. Bankr. P. 1017(a) and 2002.1

As a result, the court will either deny the motion or continue the hearing and require the moving party to file a notice of continued hearing and serve it, together with the motion and supporting documents, on the chapter 13 trustee and all creditors. The court will hear the matter.

1 The moving party served an amended notice of hearing on the chapter 13 trustee, but not the motion, declarations, or memorandum of points and authorities.

4.	17-90339-D-13	RAMON PARRA	MOTION TO CONFIRM PLAN
	TOG-1		6-6-17 [16]

5. 13-91241-D-13 OSCAR DE LA O AND KATRINA MOTION TO MODIFY PLAN
JCK-4 RODRIGUEZ 6-19-17 [58]

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. 17-90153-D-13 JASON UNDERWOOD MOTION TO CONFIRM PLAN
PSB-2 6-6-17 [47]

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. 16-90758-D-13 SUZAN CHILDERS CONTINUED OBJECTION TO CLAIM OF
SSA-3 BECHAROFF CAPITAL CORP., CLAIM
NUMBER 6
5-5-17 [48]

8. 10-93070-D-13 SANDRA PRICE CONTINUED MOTION TO AVOID LIEN
GW-3 OF CARPENTERS 46 NORTHERN
CALIFORNIA COUNTIES CONFERENCE
BOARD
5-16-17 [99]

Final ruling:

The matter is resolved without oral argument. The creditor whose judgment lien the debtor challenges in this motion has filed a declaration of its counsel stating that the creditor does not intend to object to the motion. As a result, and as the relief requested in the motion is supported by the record, the court finds the judicial lien described in the motion impairs an exemption to which the debtor is entitled. Thus, the court will grant the debtor's motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

9. 17-90385-D-13 TRACY MCNEAL COX AND OBJECTION TO CONFIRMATION OF
RCO-1 BYRON COX PLAN BY LOANDEPOT.COM, LLC
6-26-17 [21]
10. 17-90385-D-13 TRACY MCNEAL COX AND OBJECTION TO CONFIRMATION OF
RDG-2 BYRON COX PLAN BY RUSSELL D. GREER
6-26-17 [18]
11. 17-90389-D-13 SEAN AMIN OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
6-26-17 [19]
12. 13-91295-D-13 JERI TRAINOR MOTION TO MODIFY PLAN
MSN-1 6-16-17 [30]

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. 16-91097-D-13 MERCEDES HOLLOWAY MOTION TO CONFIRM PLAN
DCJ-3 6-13-17 [61]

14. 17-90500-D-13 GLENDA MORRISON AND WALLY CONTINUED MOTION TO EXTEND
BSH-1 WALDRON AUTOMATIC STAY
6-27-17 [12]

Final ruling:

This case was dismissed on July 17, 2017. As a result the motion will be denied by minute order as moot. No appearance is necessary.

15. 17-90529-D-13 GABRIELLA LARA MOTION FOR RELIEF FROM
SC-1 AUTOMATIC STAY
BRECKENRIDGE PROPERTY FUND 7-3-17 [9]
2016, LLC VS.

16. 17-90554-D-13 JASPAL SINGH MOTION TO IMPOSE AUTOMATIC STAY
TOG-2 AND/OR MOTION TO EXTEND
AUTOMATIC STAY
7-11-17 [11]

Tentative ruling:

This is the debtor's motion to extend the automatic stay. The motion was noticed pursuant to LBR 9014-1(f)(2); thus, the court will entertain opposition, if any, at the hearing. However, for the guidance of the parties, the court issues this tentative ruling.

First, the motion states the debtor seeks an extension of the stay with respect to secured creditors BMO Harris Bank, N.A. and Mercedes Benz Financial Services USA, LLC ("Mercedes Benz"). Thus, the court will limit relief, if any, to those two creditors only. To the extent, if any, the debtor seeks to extend the relief sought to include M&T Bank, which holds the mortgage on the debtor's residence, the motion will be denied because (1) the motion does not mention that creditor as among those against whom relief is sought; and (2) the debtor failed to serve that creditor at either of the two addresses listed on its request for special notice filed in the debtor's prior case.

The debtor served Mercedes Benz at the address the debtor listed on his master address list filed in his prior case, but failed to also serve it through the attorney who filed a request for special notice in the prior case and who also listed his name and address on that creditor's proof of claim filed in the prior case as the address at which notices should be given. Thus, as to Mercedes Benz, unless an appearance is made on its behalf at the hearing, the court will deny the motion. In the alternative, the court will consider extending the stay on an interim basis to allow for service to be made on that attorney.

The court will hear the matter.

17. 14-90068-D-13 MARIA CARLOS
CJY-1

CONTINUED OBJECTION TO NOTICE
OF MORTGAGE PAYMENT CHANGE
5-22-17 [30]

Final ruling:

This is the debtor's objection to a Notice of Mortgage Payment Change (the "Notice") filed by Seterus, Inc., as transferee of Chase Home Finance, LLC, on whose behalf the debtor filed a proof of claim on October 20, 2014, Claim No. 14 on the court's claims register. Although the moving party served Chase Home Finance at the address on its Transfer of Claim Other Than for Security, filed November 12, 2014, and pursuant to Fed. R. Bankr. P. 7004(b)(3), the moving party failed to serve Seterus through the attorney who signed the Notice. On July 11, 2017, the court continued the hearing to this date to permit the moving party to file a notice of continued hearing and serve it, along with the objection and exhibit, at the address of the attorney who signed the Notice. However, the moving party delayed such filing and service until July 19, 2017, just six days before the continued hearing date, and when she finally did serve the notice of continued hearing, she again failed to serve the attorney who signed the Notice or the attorney's law firm. In other words, the specific service defect noted in the court's final ruling for July 11, 2017 has still not been cured.

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