

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

August 21, 2018 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.	18-23402-D-13 RDG-1	ANGEL/ANGELIQUE ESQUEDA	OBJECTION TO CONFIRMATION OF PLAN BY TRUSTEE RUSSELL D. GREER 7-20-18 [21]
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2.	13-23405-D-13 HLG-1	JOSEPH/SARA THOMAS	MOTION TO AVOID LIEN OF CAPITAL ONE, N.A. 7-10-18 [101]
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Final ruling:

This matter has been resolved by stipulated order. As such the matter is removed from calendar. No appearance is necessary.

3. 18-23522-D-13 CLAUDIA ROCHA CONTINUED MOTION TO CONFIRM
NLL-1 TERMINATION OR ABSENCE OF STAY
6-15-18 [11]
4. 18-23522-D-13 CLAUDIA ROCHA OBJECTION TO CONFIRMATION OF
NLL-1 PLAN BY WELLS FARGO BANK, N.A.
7-24-18 [32]
5. 18-22825-D-13 PIERRE CHAHOUD AND SUZAN MOTION FOR ALLOWANCE OF FEES
SSA-3 AKHNANA AND REIMBURSEMENT OF COSTS
7-25-18 [63]

Final ruling:

This is the application of Stockton Mortgage Real Estate Loan Servicing Corporation for an allowance of attorney's fees and costs as an oversecured creditor. The hearing will be continued to September 4, 2018 at 10:00 a.m. for the moving party to provide proper notice of the hearing. Although the application correctly cites § 506(b) as the applicable authority, the notice of hearing, which is the only document served on creditors, incorrectly states that the application is brought pursuant to § 330 and that the moving party seeks priority under § 503(b)(1). In addition, the notice of hearing states the application is brought pursuant to LBR 9014-1(f)(2) and that objection may be presented at the hearing, but fails to state that no written opposition need be filed, as required by LBR 9014-1(d)(3)(B)(i). Finally, the notice of hearing gives two different addresses as the place where the hearing will be held; both are incorrect.

The hearing will be continued by minute order. No appearance is necessary on August 21, 2018.

6. 18-22736-D-13 MAX RASCON MOTION TO CONFIRM PLAN
RK-1 7-2-18 [20]

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. 17-23837-D-13 FRANCISCO/MARIA PADILLA CONTINUED MOTION TO DISMISS
JB-1 CASE AND/OR MOTION TO CONVERT
CASE TO CHAPTER 7
1-30-18 [89]

8. 17-23837-D-13 FRANCISCO/MARIA PADILLA CONTINUED MOTION TO SELL
PGM-6 7-11-18 [170]

9. 18-22241-D-13 LEYNE FERNANDEZ MOTION TO VALUE COLLATERAL OF
RS-1 GR AUTO SALES, INC.
7-18-18 [36]

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.

10. 18-22841-D-13 PAUL/MARLYN JOY WINTER CONTINUED MOTION TO DISMISS
RDG-2 CASE
7-10-18 [16]

11. 16-22147-D-13 ANGELO CODINACK AND MOTION TO MODIFY PLAN
MC-2 VICTORIA BRAUN 7-10-18 [33]

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.

12. 18-20247-D-13 BRIDGET DIAZ MOTION FOR RELIEF FROM
JHW-1 AUTOMATIC STAY
CAB WEST, LLC VS. 7-24-18 [22]

Final ruling:

This matter is resolved without oral argument. This is CAB West, LLC's motion for relief from automatic stay. The court's 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 debtor is not making post petition payments. The court finds there is cause for relief from stay, including lack of adequate protection of the moving party's interest. As the debtor is not making post-petition payments and the creditor's collateral is a depreciating asset, the court will also waive FRBP 4001(a)(3). Accordingly, the court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

13. 18-22250-D-13 RUSSELL/SHIRLEY SMITH MOTION TO CONFIRM PLAN
CLH-1 7-5-18 [32]

14. 18-21657-D-13 ROBERT/JENNIFER WILLIAMS MOTION TO VALUE COLLATERAL OF
AOE-4 CALHFA MORTGAGE ASSISTANCE
CORPORATION
7-23-18 [97]

Final ruling:

Motion withdrawn by moving party. Matter removed from calendar.

15. 17-27960-D-13 CRAIG GILMORE
GMW-3

CONTINUED MOTION TO CONFIRM
PLAN
6-5-18 [100]

16. 18-21661-D-13 GERARDO LARA AND NORMA
CLH-1 CAMARENA

MOTION TO CONFIRM PLAN
7-3-18 [36]

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 moving parties failed to serve the attorney requesting special notice at DN 8, who represents the holder of the second deed of trust on the debtors' residence, at the address designated in the request, as required by Fed. R. Bankr. P. 2002(g); (2) the moving parties failed to serve the creditor filing Claim No. 12, holder of the first deed of trust, at the address listed on its proof of claim where notices are to be sent, as required by Fed. R. Bankr. P. 2002(g); instead, the moving parties served this creditor only at a partial address which is part of the address on the proof of claim where payments are to be sent; and (3) the moving parties failed to serve the U.S. Dept. of Education at its address on the Roster of Governmental Agencies, as required by LBR 2002-1(b).

As a result of these service defects, the motion will be denied and the court need not reach the issues raised by the trustee and BMO Harris Bank at this time. The motion will be denied by minute order. No appearance is necessary.

17. 18-22673-D-13 RONALD/MAFFIE DIOSO
MKM-1

MOTION TO AVOID LIEN OF MIDLAND
FUNDING, LLC
7-11-18 [22]

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. The court finds the judicial lien described in the motion impairs an exemption to which the debtors are entitled. As a result, the court will grant the debtors' motion to avoid the lien. Moving party is to submit an appropriate order, which order shall specifically identify the real property subject to the lien and specifically identify the lien to be avoided. No appearance is necessary.

18. 18-22673-D-13 RONALD/MAFFIE DIOSO MOTION TO AVOID LIEN OF MIDLAND
MKM-2 FUNDING, LLC
7-11-18 [28]
19. 15-27287-D-13 GINA TOSCANO MOTION TO MODIFY PLAN
PGM-7 7-5-18 [114]
20. 18-23522-D-13 CLAUDIA ROCHA OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
7-20-18 [24]
21. 18-21661-D-13 GERARDO LARA AND NORMA CONTINUED MOTION TO AVOID LIEN
CLH-2 CAMARENA OF TRI-COUNTIES BANK
7-5-18 [41]

22. 18-24864-D-13 ERIC BARBARY AND MARIAN MOTION TO EXTEND AUTOMATIC STAY
PGM-1 CORK-BARBARY 8-7-18 [10]