

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Sacramento, California

December 11, 2013 at 1:00 p.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.	13-20823-D-11	MELVIN/DARLENE SHIMADA	CONFIRMATION OF AMENDED PLAN OF REORGANIZATION FILED BY DEBTORS 11-1-13 [229]
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2.	12-35735-D-11 MRL-22	DAVID CAROTHERS	CONTINUED APPROVAL OF AMENDED DISCLOSURE STATEMENT FILED BY DEBTOR 9-6-13 [254]
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**Final ruling:**

The hearing on approval of disclosure statement is continued to January 8, 2014 at 1:00 p.m. per stipulated order. No appearance is necessary.

3. 13-23371-D-11 JUAN/MARGARITA RAMIREZ  
TCS-3

APPROVAL OF DISCLOSURE  
STATEMENT FILED BY DEBTORS  
10-4-13 [77]

**Tentative ruling:**

The court has fixed September 30, 2013 as the deadline for the filing of a proposed chapter 11 plan and disclosure statement by the debtors. The debtors filed a plan and disclosure statement on September 30, 2013, as required. However, there are a host of problems with those documents and others filed with and after them, that cause the court some concern as to the ability of the debtors and their counsel to comply with the procedural mechanisms to obtain confirmation of a plan. First, neither the plan nor the disclosure statement filed September 30, 2013 was signed by the debtors. Thus, they were re-filed on October 4, 2013, with signatures of the debtors, but with the same signature dates as the originals, filed September 30, 2013. Thus, it appears the addition of the debtors' signatures was the only change; however, the plan filed October 4, 2013 is entitled "Erratum to Plan of Reorganization," whereas if substantive changes were made, the new plan should have been entitled an "amended plan" instead.

Second, the notice of hearing on the disclosure statement (DN 73) stated inconsistent deadlines for the filing of written opposition: 7 calendar days prior to the hearing date (at 2:9-10) and 14 calendar days prior to the hearing date (at 2:21-22). However, it appears this notice was never served. Instead, on October 4, 2013, the debtors filed a "notice of erratum and amended notice of motion," apparently with no changes except that the hearing date was changed from November 13, 2013 to December 11, 2013; however, that notice provided no information as to the deadline for the filing of opposition. Further, a motion to approve the disclosure statement was filed October 4, 2013; it gives the hearing date as December 11, 2013 in the caption, but as November 13, 2013 in the text. In addition, the title of this motion is identical to the debtor's motion filed September 30, 2013 (which gave the hearing date as November 13, 2013 in both the caption and the text); thus, as the proof of service (DN 84) refers only to the "motion," the court cannot determine which of the two motions was served.

Finally, the plan (that is, the Erratum to the plan) and disclosure statement were served on all creditors, whereas they should have been served only on the United States Trustee and parties who have requested in writing a copy of the plan or disclosure statement. Fed. R. Bankr. P. 3017(a).

The court intends to deny approval of the disclosure statement for the procedural defects outlined above and set a new bar for the debtors to file a plan and a bar date to have a new plan confirmed.