

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Modesto, California

January 10, 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.

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|----|---------------|----------------|------------------------|
| 1. | 16-90600-D-13 | VALERIE AVITIA | MOTION TO CONFIRM PLAN |
| | BSH-2 | | 11-17-16 [79] |

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. 16-90700-D-13 SAMANTHA FITZGERALD MOTION TO CONFIRM PLAN
JAD-1 11-18-16 [28]

3. 16-90305-D-13 DANIEL/ANITA ALMANZA OBJECTION TO CLAIM OF FRANCHISE
CJY-2 TAX BOARD, CLAIM NUMBER 6-1
11-18-16 [25]

Final ruling:

The matter is resolved without oral argument. The court's record indicates that no timely opposition/response to the debtors' objection to the Franchise Tax Board's claim, claim no. 6-1, has been filed and the objection is supported by the record. Accordingly, the court will sustain the debtors' objection to claim. Moving party is to submit an appropriate order. No appearance is necessary.

4. 16-90305-D-13 DANIEL/ANITA ALMANZA MOTION TO MODIFY PLAN
CJY-3 11-18-16 [29]

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.

5. 16-91006-D-13 JOHNNY RIVAS OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
12-16-16 [14]

6. 16-90910-D-13 DURLABH GANDHI MOTION TO CONFIRM PLAN
CJY-4 11-23-16 [40]

Final ruling:

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied because it was not served on all creditors, as required by Fed. R. Bankr. P. 2002(b). The moving party failed to serve three deed of trust holders, a tax collector, and two unsecured creditors listed on the debtor's original schedules, and failed to serve the secured creditor added by an amended Schedule D filed November 22, 2016.

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

7. 14-90318-D-13 ROBERT/DENISE ZIMMERMAN MOTION TO MODIFY PLAN
CJY-1 11-30-16 [29]

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. 12-90019-D-13 LOWELL ANDERSON MOTION TO MODIFY PLAN
MJD-1 11-21-16 [61]

9. 12-92921-D-13 JESSE/REGINA TOSCANO MOTION TO MODIFY PLAN
CJY-2 11-22-16 [69]

10. 16-90633-D-13 RAMON/LETICIA GARCIA MOTION TO CONFIRM PLAN
BSH-1 11-17-16 [34]

Final ruling:

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied because it was not served on all creditors, as required by Fed. R. Bankr. P. 2002(b). The moving parties failed to serve Angel Garcia, listed on the debtors' Schedule H as a co-debtor. Minimal research into the case law concerning § 101(5) and (10) of the Bankruptcy Code discloses an extremely broad interpretation of "creditor," certainly one that includes a co-debtor on obligations of the debtor. The debtors also failed to comply with Bankr. P. 1007(a)(1), which requires debtors to list co-debtors on their master address list.

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

11. 13-90134-D-13 ROBERT/CATHLEEN MOTION FOR SUBSTITUTION AS THE
EJS-1 WIERZBOWSKI REPRESENTATIVE FOR OR SUCCESSOR
TO THE DECEASED DEBTOR AND/OR
MOTION FOR CONTINUED
ADMINISTRATION OF THE CASE
11-17-16 [71]

12. 16-90934-D-13 ROBERT LININGER OBJECTION TO CONFIRMATION OF
APN-1 PLAN BY WELLS FARGO BANK, N.A.
11-9-16 [22]

Final ruling:

This case was dismissed on November 23, 2016. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

13. 16-90935-D-13 ANTONIO LOA AND CHRISTY OBJECTION TO CONFIRMATION OF
RDG-1 RAMIREZ PLAN BY RUSSELL D. GREER
12-5-16 [42]

14. 16-90936-D-13 SICHAMPOU SIPHAN
RDG-2

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
12-5-16 [23]

Final ruling:

This case was dismissed on December 22, 2016. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

15. 14-91337-D-13 LUIS/SONIA DELGADO
CSL-6

MOTION TO APPROVE LOAN
MODIFICATION
12-9-16 [81]

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 approve loan modification is supported by the record. As such the court will grant the motion to approve loan modification by minute order. No appearance is necessary.

16. 12-92040-D-13 JOHN/ROBYN FITZGERALD
CJY-4

MOTION TO APPROVE LOAN
MODIFICATION
12-12-16 [66]

17. 11-92649-D-13 HUMBERTO/MARTHA MORENO
16-9014 SSA-1
MORENO ET AL V. DREAMBUILDER
INVESTMENTS, LLC.

MOTION TO AMEND
12-14-16 [12]

18. 15-90351-D-13 HENRY PEREZ
BSH-5

MOTION TO MODIFY PLAN
11-18-16 [70]

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.

19. 16-90951-D-13 CLAUDIA BELL
RDG-3

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
12-5-16 [26]

20. 12-91853-D-13 KENNETH/LORI FALKENSTROM
PGM-3

OBJECTION TO CLAIM OF NATIONAL
CREDIT UNION ADMINISTRATION
BOARD, CLAIM NUMBER 10
11-7-16 [50]

Tentative ruling:

This is the debtors' objection to the claim of National Credit Union Administration Board as the liquidation agent for Cal State 9 FCU, Claim No. 10 on the court's claims register. The objection will be overruled because, although the moving parties served the claimant at the address on its proof of claim, they failed to also serve it at the different address listed in the schedules, as required by LBR 3007-1(c).

As a result of this service defect, the objection will be overruled by minute order. Alternatively, the court will continue the hearing to allow counsel to cure this service defect.

21. 16-90455-D-13 DANIEL GONSALVES
MJD-1

MOTION TO CONFIRM PLAN
11-9-16 [40]

Final ruling:

The relief requested in the motion is supported by the record, the trustee having withdrawn his opposition, and no other 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 attached as Exhibit 2 to General Order 05-03. The order is to be signed by the Chapter 13 trustee approving its form prior to the order being submitted to the court.

22. 16-90758-D-13 SUZAN CHILDERS MOTION TO CONFIRM PLAN
SSA-2 11-18-16 [30]

23. 16-90362-D-13 KRISTOPHER/JULIE NABORS MOTION TO CONFIRM PLAN
BSH-3 11-17-16 [62]

24. 16-90965-D-13 JESSIE/PATRICIA SANTOS OBJECTION TO CONFIRMATION OF
RDG-2 PLAN BY RUSSELL D. GREER
12-16-16 [29]

25. 16-90868-D-13 LISA COOPER MOTION TO VALUE COLLATERAL OF
LDC-1 HAPPO COMMUNITY CREDIT UNION
12-1-16 [36]

Final ruling:

This is the debtor's motion to value collateral of Happon Community Credit Union (the "Credit Union"); namely, the debtor's 2011 Ford F150. The motion will be denied for the following reasons. First, the moving party failed to served the Credit Union in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving party served the Credit Union at a street address but with no attention line, whereas the rule requires service to the attention of an officer, managing or general agent, or agent for service of process. Second, the proof of service is not signed under oath, as required by 28 U.S.C. § 1746. Third, the notice of hearing gives the hearing date as January 10, 2017 in the caption but December 20, 2016 in the text. Finally, the moving party has utilized an incorrect standard in valuing the collateral. In the motion, the moving party states the "fair market value" of the vehicle is \$18,745 and in the declaration, she states that in her opinion, the vehicle is "worth" \$18,745, whereas the correct standard is the vehicle's replacement value, as defined in § 506(a)(2) of the Bankruptcy Code.

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

26. 16-90868-D-13 LISA COOPER
LDC-2

MOTION TO VALUE COLLATERAL OF
NUMERICA CREDIT UNION
12-1-16 [40]

Final ruling:

This is the debtor's motion to value collateral of Numerica Credit Union (the "Credit Union"); namely, the debtor's 2010 Kia Forte. The motion will be denied for the following reasons. First, the moving party failed to served the Credit Union in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving party served the Credit Union at a street address but with no attention line, whereas the rule requires service to the attention of an officer, managing or general agent, or agent for service of process. Second, the proof of service is not signed under oath, as required by 28 U.S.C. § 1746. Third, the notice of hearing gives the hearing date as January 10, 2017 in the caption but December 20, 2016 in the text. Finally, the moving party has utilized an incorrect standard in valuing the collateral. In the motion, the moving party states the "fair market value" of the vehicle is \$6,016 and in the declaration, she states that in her opinion, the vehicle is "worth" \$6,016, whereas the correct standard is the vehicle's replacement value, as defined in § 506(a)(2) of the Bankruptcy Code.

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

27. 16-90968-D-13 PAUL DYKES
RDG-2

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
12-16-16 [25]

28. 16-91000-D-13 MAURICE/VENISE SMALLEY
AP-1

OBJECTION TO CONFIRMATION OF
PLAN BY JPMORGAN CHASE BANK,
N.A.
12-21-16 [18]

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| 29. | 16-90921-D-13 RDG-1 | JOHN/JULIE HOLDER | CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 11-21-16 [19] |
| 30. | 11-94222-D-13 DCJ-6 | SHELLEY SHAHEN | CONTINUED MOTION TO MODIFY PLAN 7-5-16 [107] |
| 31. | 11-93929-D-13 CJY-2 | DOUGLAS/VICTORIA DEARDORFF | MOTION TO VALUE COLLATERAL OF CITIBANK/CITIMORTGAGE 12-21-16 [43] |
| 32. | 12-92433-D-13 AP-1 JPMORGAN CHASE BANK, N.A. VS. | DOUGLAS/JUDITH BRADSHAW | CONTINUED MOTION FOR RELIEF FROM AUTOMATIC STAY 11-16-16 [105] |

33. 16-90635-D-13 ROBERT TONDRE
MLP-2

MOTION TO APPROVE LOAN
MODIFICATION
12-27-16 [29]

34. 16-90959-D-13 KARMELA BADELBOU
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
12-19-16 [14]

35. 16-90969-D-13 JEREMY PANNELL
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
12-19-16 [11]

36. 16-90976-D-13 KURT/MARIA OBISPO
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN
12-19-16 [29]

Final ruling:

The debtors filed an amended plan on December 15, 2016, making this objection moot. As a result the court will overrule the objection without prejudice by minute order. No appearance is necessary.

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| 37. | 16-91083-D-13 CJY-1 | LOUWANNA MARTIN | CONTINUED MOTION TO EXTEND AUTOMATIC STAY 12-6-16 [8] |
| 38. | 12-91395-D-13 TOG-2 | SEFERINO/MARIA LEMUS | CONTINUED MOTION TO MODIFY PLAN 7-29-16 [54] |
| 39. | 12-91395-D-13 TOG-3 | SEFERINO/MARIA LEMUS | CONTINUED OBJECTION TO CLAIM OF INTERNAL REVENUE SERVICE, CLAIM NUMBER 8-1 10-31-16 [62] |