

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Sacramento, California

January 14, 2015 at 10:00 a.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.	12-31709-D-13	KEVIN/ELIZABETH HOFFMAN	MOTION TO MODIFY PLAN
	JCK-3		12-9-14 [46]

Final ruling:

The debtors originally set this matter for hearing on January 20, 2015, and on December 11, 2014, the court rescheduled all matters set for that date, including this one, to January 14, 2015. However, also on December 11, 2014, the debtors filed an amended motion and amended notice of hearing setting the matter for hearing on February 3, 2015. As a result, the hearing will be continued to February 3, 2015 at 10:00 a.m. No appearance is necessary on January 14, 2015.

2.	14-28709-D-13	JAMES/ERICKA BARNEY	MOTION TO AVOID LIEN OF PREMIER
	ALF-3		COMMUNITY CREDIT UNION
			11-4-14 [41]

Final ruling:

The hearing on this motion is continued to February 3, 2015 at 10:00 a.m. No appearance is necessary on January 14, 2015.

3. 14-28709-D-13 JAMES/ERICKA BARNEY CONTINUED OBJECTION TO  
RDG-2 CONFIRMATION OF PLAN BY RUSSELL  
D. GREER  
10-21-14 [28]

**Final ruling:**

The hearing on this motion is continued to February 3, 2015 at 10:00 a.m. No appearance is necessary on January 14, 2015.

4. 11-40312-D-13 WILLIE/DOLORES METOYER MOTION TO MODIFY PLAN  
SLA-1 12-3-14 [37]

5. 14-30536-D-13 ESTHER JOHNSON OBJECTION TO CONFIRMATION OF  
BHT-1 PLAN BY DEUTSCHE BANK NATIONAL  
TRUST COMPANY  
11-25-14 [20]

**Final ruling:**

This case was dismissed on December 18, 2014. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

6. 14-29542-D-13 JENIE ODON AND GRACE MOTION TO VALUE COLLATERAL OF  
JM-1 PAULINO BANK OF AMERICA  
11-13-14 [23]

**Final ruling:**

This is the debtors' motion to value collateral of Bank of America. On December 1, 2014, the debtors filed a purported stipulation resolving the motion. The stipulation bears a handwritten signature of someone as "Attorney for Secured Creditor"; however, the signature is not legible and the name of the person signing the stipulation is not typed underneath the signature, as required by LBR 9004-1(c). The parties shall submit a signed amended stipulation that includes the typed name of the person signing the stipulation on behalf of Bank of America, along with a proposed order approving the stipulation on or before January 21, 2015. The hearing on this motion is continued to February 3, 2015 at 10:00 a.m. to allow the court to rule on the amended stipulation. No appearance is necessary on January 14, 2015.

The court will hear the matter.

7. 14-29348-D-13 JAMES SHAWVER  
RDG-4

CONTINUED MOTION TO DISMISS  
CASE FOR UNREASONABLE DELAY  
THAT IS PREJUDICIAL TO  
CREDITORS AND/OR MOTION TO  
DISMISS CASE FOR FAILURE TO  
MAKE PLAN PAYMENTS , MOTION TO  
DISMISS CASE  
12-2-14 [36]

8. 12-23550-D-13 KATHLEEN HARRIS  
RAS-1

MOTION TO MODIFY PLAN  
12-2-14 [114]

**Final ruling:**

This is the debtor's motion to confirm a second modified chapter 13 plan. On January 1, 2015, the debtor filed a purported withdrawal of the second modified plan and of the motion to confirm it. However, the trustee had earlier filed opposition to the motion; thus, the debtor no longer had the right to withdraw the motion unilaterally. See Fed. R. Bankr. P. 9014(c) and 7041, incorporating Fed. R. Civ. P. 41(a)(1) and (2). The court infers from the debtor's purported withdrawal of the proposed plan and motion that the debtor does not wish to contest the issues raised by the trustee. Accordingly, the court will deny the motion. The motion will be denied by minute order. No appearance is necessary.

9. 12-23550-D-13 KATHLEEN HARRIS  
RAS-2

MOTION TO APPROVE LOAN  
MODIFICATION  
12-2-14 [119]

**Final ruling:**

This is the debtor's motion to approve a loan modification. On January 1, 2015, the debtor filed a purported withdrawal of the motion. However, the trustee had earlier filed opposition to the motion; thus, the debtor no longer had the right to withdraw the motion unilaterally. See Fed. R. Bankr. P. 9014(c) and 7041, incorporating Fed. R. Civ. P. 41(a)(1) and (2). The court infers from the debtor's purported withdrawal of the motion that the debtor does not wish to contest the issues raised by the trustee. Accordingly, the court will deny the motion. The motion will be denied by minute order. No appearance is necessary.

10. 14-26159-D-13 ELIZABETH MIDDLEKAUFF  
MG-3

MOTION TO CONFIRM PLAN  
12-2-14 [77]

**Final ruling:**

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons. First, the moving party failed to serve Honda Financial Corporation, added to her Schedule D by amendment filed August 25, 2014, as required by Fed. R. Bankr. P. 2002(b). When the moving party filed the amended Schedule D, she failed to also amend her master address list; thus, when she used the PACER matrix for service of this motion, Honda was not on the matrix and was not served. Second, the proof of service of the motion was not filed until December 22, 2014, whereas the documents served were filed December 2, 2014. Thus, the proof of service was not filed within three days after the date the documents were filed, as required by LBR 9014-1(e)(2).

As a result of these service defects, 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. 14-28464-D-13 CRISANTO/ANNA DE CASTRO MOTION TO AVOID LIEN OF  
ADR-3 HOUSEHOLD FINANCE CORPORATION  
OF CALIFORNIA  
12-15-14 [52]

**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. No appearance is necessary.

12. 14-29465-D-13 ALBERT/MARY HAYNES MOTION TO CONFIRM PLAN  
RAS-1 12-1-14 [34]

**Final ruling:**

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied because the moving parties failed to serve the IRS and Contra Costa Superior Court, added to their Schedules E and F, respectively, by amendment filed December 1, 2014, as required by Fed. R. Bankr. P. 2002(b). When the moving parties filed the amended schedules, they failed to also amend their master address list; thus, when they used the PACER matrix for service of this motion, those creditors were not on the matrix and were not served.

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.

13. 14-27267-D-13 SARAD/USHA CHAND MOTION TO CONFIRM PLAN  
RLG-2 12-2-14 [34]

**Final ruling:**

The hearing on this motion is continued to February 3, 2015 at 10:00 a.m. No appearance is necessary on January 14, 2015.

14. 10-34977-D-13 MARIA FLORES MOTION TO MODIFY PLAN  
TOG-17 12-2-14 [183]

15. 14-28682-D-13 ARMANDO/LINDA MARTINEZ MOTION TO VALUE COLLATERAL OF  
MSM-4 WELLS FARGO BANK, N.A.  
12-12-14 [50]

**Final ruling:**

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Wells Fargo Bank, N.A. at \$0.00, pursuant to § 506(a) of the Bankruptcy Code. The creditor's claim is secured by a junior deed of trust on the debtors' residence and the amount owed on the senior encumbrance exceeds the value of the real property. 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 set the amount of Wells Fargo Bank, N.A.'s secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

16. 11-46785-D-13 DEWAYNE/MILDRED WEDDLES MOTION TO MODIFY PLAN  
JCK-8 12-4-14 [125]

**Final ruling:**

The debtors originally set this matter for hearing on January 20, 2015, and on December 11, 2014, the court rescheduled all matters set for that date, including this one, to January 14, 2015. However, also on December 11, 2014, the debtors filed an amended motion and amended notice of hearing setting the matter for hearing on February 3, 2015. As a result, the hearing will be continued to February 3, 2015 at 10:00 a.m. No appearance is necessary on January 14, 2015.

17. 12-28185-D-13 ANTOINETTA TREISS MOTION TO CONFIRM PLAN  
BSH-5 12-3-14 [165]

18. 14-31086-D-13 CORINTHIAN JONES CONTINUED MOTION TO DISMISS  
RDG-1 CASE FOR UNREASONABLE DELAY  
THAT IS PREJUDICIAL TO  
CREDITORS AND/OR MOTION TO  
DISMISS CASE  
12-2-14 [10]

19. 14-30191-D-13 RICHARD/JANET BOONE  
PK-1

MOTION TO CONFIRM PLAN  
12-5-14 [24]

**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 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.

20. 14-30191-D-13 RICHARD/JANET BOONE  
RDG-2

OBJECTION TO DEBTORS' CLAIM OF  
EXEMPTIONS  
12-5-14 [22]

**Final ruling:**

This is the trustee's objection to the debtors' claim of exemptions. On December 5, 2014, the debtors filed an amended claim of exemptions. As a result of the filing of the amended claim of exemptions, this objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

21. 12-29798-D-13 ERIC/EMMARI CALAYAN  
TBK-10

MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF THE KURTA LAW  
FIRM FOR TARAS KURTA, DEBTORS'  
ATTORNEY(S)  
12-15-14 [124]

**Final ruling:**

The matter is resolved without oral argument. The court's records indicate that no timely opposition has been filed. The record establishes, and the court finds, that the fees and costs requested are reasonable compensation for actual, necessary, and beneficial services under Bankruptcy Code § 330(a). As such, the court will grant the motion by minute order. No appearance is necessary.

22. 09-39611-D-13 STEVEN/MARY CRESCINI  
CJY-1

MOTION TO VALUE COLLATERAL OF  
PRA RECEIVABLES MANAGEMENT, LLC  
12-29-14 [74]

23. 14-23451-D-13 ERNESTO/MARIA ORTEGA  
TOG-7

AMENDED MOTION TO BORROW  
12-30-14 [67]