

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Modesto, California

January 27, 2015 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.	14-90529-D-13	GREGG/KIANDRA WALKER	MOTION TO MODIFY PLAN
	JAD-1		12-12-14 [35]
	Final 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 all creditors, as required by Fed. R. Bankr. P. 2002(b). (The third page of the PACER matrix is missing from the proof of service.) As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.

2.	12-91956-D-13	SANTIAGO/TERESA MENDOZA	MOTION TO MODIFY PLAN
	CJY-4		12-5-14 [48]

3. 13-90357-D-13 ROBERT/DIANE ROSE
CSL-3

MOTION TO MODIFY PLAN
12-12-14 [57]

Final ruling:

This is the debtors' motion to confirm a modified chapter 13 plan. The motion will be denied for the following reasons. First, the "attached matrix" referred to in the proof of service is not attached; thus, there is no evidence the moving parties served anyone other than the trustee. Second, the proof of service does not adequately state the manner of service. The proof of service states the documents were served "electronically or by placing true copies thereof enclosed in a sealed envelope and served in the manner and/or manners described below" The manner of service is not further described below. Thus, for parties served by mail, if any, the proof of service does not state that the sealed envelopes were sent by U.S. Mail with postage prepaid or otherwise. Further, for the chapter 13 trustee, the proof of service gives a post office box address and immediately underneath it an e-mail address. Thus, given that the documents were served "electronically or by placing true copies in a sealed envelope" and in the "manner and/or manners" described below, it cannot be determined whether the documents were served on the trustee by mail or by e-mail or both. Third, as the trustee points out, the debtors filed a 12-page document with the motion consisting of two separate plans, one labeled "amended" plan and the other labeled "second amended" plan, both bearing the same signature date but with significant differences between the two. It cannot be determined which plan the debtors seek to confirm.

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

4. 14-90657-D-13 KATRINA CHANDLER
SJS-3

MOTION TO VALUE COLLATERAL OF
TOYOTA MOTOR CREDIT CORPORATION
12-17-14 [50]

Final ruling:

This case was dismissed on January 5, 2015. As a result the motion will be denied by minute order as moot. No appearance is necessary.

5. 14-91262-D-13 GLORIA MARQUEZ
CAH-2

MOTION TO CONFIRM PLAN
12-4-14 [30]

Final ruling:

This is the debtor's motion to confirm a chapter 13 plan. The motion will be denied for the following reasons. First, the moving party failed to serve (1) Severaid & Glahn, P.C., listed on her Schedule D as holding a lien for homeowners' association dues in the amount of \$15,000; (2) the Franchise Tax Board, which has filed a proof of claim in this case; and (3) HSBC Card Services, listed on the debtor's Schedule F. Thus, the moving party failed to comply with Fed. R. Bankr. P. 2002(b). Second, the debtor has filed two plans in this case, which differ from each other, but both are entitled simply "Chapter 13 Plan," with nothing in the title to distinguish them; thus, it cannot be determined from the proof of service, which evidences service of the "Chapter 13 Plan," which of the two plans was served.

Third, the plan lists the holder of the second on the debtor's condo as HSBC Bank USA, N.A. and proposes to pay \$0 on its claim; however, the Additional Provisions of the plan, which further described the stripping of the lien secured by the second, name the holder of the second as City National Bank / Ocwen Loan Service. City National Bank / Ocwen Loan Service is listed in the plan as the holder of the first on the condo, and on the debtor's original plan, it was also listed as the holder of the second, apparently by mistake. The listing of the holder of the second as HSBC Bank in sec. 2.09 of the plan but as City National Bank / Ocwen Loan Service in the Additional Provisions, with their description of the effect of the lien stripping, may have created confusion for the holder of the second as to the treatment of its claim; thus, the plan fails to give adequate notice of its provisions.

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

6. 14-91262-D-13 GLORIA MARQUEZ
CAH-3

MOTION TO VALUE COLLATERAL OF
HSBC BANK USA, N.A.
12-4-14 [39]

Final ruling:

The matter is resolved without oral argument. This is the debtor's motion to value the secured claim of HSBC Bank USA, 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 debtor's 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 HSBC Bank USA, N.A.'s secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

7. 13-91970-D-13 JEAN VAUGHAN
CJY-2

MOTION TO MODIFY PLAN
12-19-14 [40]

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.

8. 14-90971-D-13 BRUCE/CASEY SNIDER
LRR-3

MOTION TO CONFIRM PLAN
12-2-14 [58]

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 creditors that filed Claim Nos. 6 through 15 at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g). (The court notes that all of those claims were filed well in advance of the date the motion was served.) As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.

9. 13-91472-D-13 STEVEN/LINDA DOWNEY MOTION TO MODIFY PLAN
CJY-1 12-1-14 [21]

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.

10. 13-91473-D-13 BRIAN MYERS MOTION TO MODIFY PLAN
CJY-1 12-9-14 [21]

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.

11. 10-90077-D-13 KEITH/PAMLA ESPINDOLA MOTION TO MODIFY PLAN
CJY-1 12-18-14 [31]

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.

12. 11-90278-D-13 OFELIA JACQUEZ MOTION TO MODIFY PLAN
DN-2 12-11-14 [75]

13. 10-94581-D-13 RUBEN REYNA AND ANGELINA MOTION TO MODIFY PLAN
CJY-1 GONZALES 12-12-14 [90]

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.

14. 12-90685-D-13 SEAN KENNEDY MOTION TO MODIFY PLAN
CJY-3 12-3-14 [67]

15. 12-92089-D-13 JAYSON/LAURA AGUIRRE MOTION TO MODIFY PLAN
BSH-3 12-5-14 [67]

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.

16. 11-90091-D-13 CHRISTOPHER MOORHOUSE MOTION TO MODIFY PLAN
CJY-3 12-3-14 [50]

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.

17.	14-91501-D-13 HSM-1	MATTHEW HAGERTY	OBJECTION TO CONFIRMATION OF PLAN BY EL DORADO SAVINGS BANK 1-7-15 [34]
18.	14-91501-D-13 RDG-2	MATTHEW HAGERTY	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 1-5-15 [31]
19.	14-91515-D-13 RDG-1	CHERI BOSWORTH	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 1-5-15 [14]
20.	14-91517-D-13 RDG-1	RONALD CLARK	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 1-5-15 [17]

21. 14-91461-D-13 PATRICIA HUGHES
SSA-1

MOTION BY STEVEN S. ALTMAN TO
WITHDRAW AS ATTORNEY
1-9-15 [25]

22. 10-94775-D-13 ROLANDO VAZQUEZ
JDP-1

MOTION TO SELL
1-7-15 [61]

23. 09-92781-D-13 SARKY MEKMORAKOTH
CJY-1

MOTION TO VALUE COLLATERAL OF
OLD REPUBLIC EQUITY CREDIT
SERVICES, INC.
1-6-15 [36]