

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Modesto, California

February 20, 2018 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.	<a href="#">17-91005</a> -D-13	FERNANDO PRADO AND MARIA	MOTION TO VALUE COLLATERAL OF
	<a href="#">MSN</a> -1	VALENCIA	CAPITAL ONE AUTO FINANCE
			1-2-18 <a href="#">[12]</a>

Tentative ruling:

This is the debtors' motion to value collateral of Capital One Auto Finance, a 2013 Volkswagen Jetta. No opposition has been filed. However, the court is not prepared to grant the motion because the motion and the debtors' supporting declaration are conflicting and the debtors have not demonstrated that the value stated in the motion is in fact the replacement value of the vehicle. Thus, assuming the relief sought is as stated in the motion, the debtors have not demonstrated they are entitled to the relief requested, as required by LBR 9014-1(d)(3)(D).

Pursuant to § 506(a)(2) of the Bankruptcy Code, a secured claim is to be valued based on the replacement value of the collateral securing the claim. For property acquired for personal, family, or household purposes, "replacement value" means the price a retail merchant would charge for property of the same kind considering the age and condition of the debtor's property. Neither the motion nor the debtors' supporting declaration mentions the vehicle's replacement value. Further, the

motion and declaration conflict. The motion states the "Debtors value the collateral at \$6,926.00" (Debtors' Motion, DN 12, at 1:18-19), whereas the debtors state in their declaration: "We believe that the retail value of this vehicle is \$7,762.00. Kelley Blue Book's Suggested Retail Price is \$6,926.00 (See [Ex. A])." Debtors' Decl., DN 14, at 1:22-24. The KBB pricing report filed as an exhibit shows a "fair market range" of \$6,154 - \$7,698, a "fair purchase price" of \$6,926, and a "typical listing price" of \$7,326.

As there is no evidence of the "replacement value" specifically, and as the debtors have testified they believe the retail value of this vehicle is \$7,762, the court will deny the motion to the extent it seeks to value the vehicle at \$6,926. In the alternative, the court will grant the motion in part and value the vehicle at \$7,625, which is the amount of the claim Capital One asserts is secured. See Claim No. 1 on the court's claims register.

The court will hear the matter.

2.	<a href="#">17-90409</a> -D-13      JOHNATHAN MOHR <a href="#">APN</a> -1 SANTANDER CONSUMER USA, INC. VS.	MOTION FOR RELIEF FROM AUTOMATIC STAY 1-16-18 [ <a href="#">69</a> ]
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Final ruling:

This matter is resolved without oral argument. This is Santander Consumer USA, Inc.'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.

3.	<a href="#">17-90823</a> -D-13      JOSEPH/LISA ROBERTSON <a href="#">PLG</a> -2	MOTION TO CONFIRM PLAN 1-3-18 [ <a href="#">28</a> ]
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Final ruling:

This is the debtors' motion to confirm a first amended chapter 13 plan. On February 8, 2018, the debtors filed a second amended plan and a motion to confirm it. As a result of the filing of the second amended plan, the present motion is moot. The motion will be denied as moot by minute order. No appearance is necessary.

4. [17-90230](#)-D-13 ELIZABETH ROORDA MOTION TO MODIFY PLAN  
[MSN](#)-2 1-2-18 [[36](#)]

**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. [17-90932](#)-D-13 JOANN MORGAN OBJECTION TO DEBTOR'S CLAIM OF  
[RDG](#)-3 EXEMPTIONS  
1-12-18 [[29](#)]

**Final ruling:**

This case was dismissed on January 23, 2018. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

6. [14-91544](#)-D-13 REID LANTRIP MOTION TO MODIFY PLAN  
[PLG](#)-2 1-12-18 [[41](#)]

7. [15-90249](#)-D-13 THERESA TOWNES MOTION TO MODIFY PLAN  
[MSN](#)-2 1-16-18 [[73](#)]

8. [16-90160](#)-D-13 ISAAC GUZMAN MOTION TO MODIFY PLAN  
[MSN](#)-3 1-5-18 [[77](#)]

9. [17-90961](#)-D-13 ANGEL GARZA OBJECTION TO DEBTOR'S CLAIM OF  
[RDG](#)-2 EXEMPTIONS  
1-12-18 [[21](#)]

**Final ruling:**

**This case was dismissed on January 23, 2018. As a result the objection will be overruled by minute order as moot. No appearance is necessary.**

10. [17-90466](#)-D-13 DAVID/DEANNA ROLLER OBJECTION TO CLAIM OF FINANCIAL  
[GEL](#)-2 PACIFIC LEASING, INC., CLAIM  
NUMBER 13-1  
12-30-17 [[66](#)]

**Final ruling:**

**This is the debtors' objection to the secured claim of Financial Pacific Leasing, Inc., Claim No. 13 on the court's claims register. The court's record indicates that no timely opposition/response to the objection has been filed and the objection, to the extent it is directed to the secured status of the claim, is supported by the record. Accordingly, the court will issue a minute order sustaining the debtors' objection to the claim as a secured claim, but will allow the claim as a general unsecured claim. No appearance is necessary.**

11. [17-90475](#)-D-13 BRIAN BRECKENRIDGE CONTINUED MOTION TO CONFIRM  
[DCJ](#)-2 PLAN  
8-6-17 [[25](#)]

12. [16-90177](#)-D-13 TROY/CHARIA SHEETS MOTION TO INCUR DEBT  
[MLP-3](#) 1-16-18 [[53](#)]

**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 incur debt is supported by the record. As such the court will grant the motion by minute order. No appearance is necessary.

13. [16-90177](#)-D-13 TROY/CHARIA SHEETS MOTION TO MODIFY PLAN  
[MLP-4](#) 1-16-18 [[57](#)]

**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 use the current form of the chapter 13 plan, required in this district as of December 1, 2017 by General Order 17-03. The motion will be denied by minute order. No appearance is necessary.

14. [17-90195](#)-D-13 DAVID/STACIE GONZALES MOTION TO MODIFY PLAN  
[MSN-1](#) 1-16-18 [[30](#)]

**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.

15. [17-90713](#)-D-13 BRANDY DURKEE CONTINUED MOTION TO CONFIRM  
[RS-2](#) PLAN  
12-18-17 [[41](#)]

16. [17-90979](#)-D-13 RORY/SHAMEEMA STEVENS OBJECTION TO CONFIRMATION OF  
[RDG](#)-1 PLAN BY RUSSELL D. GREER  
1-30-18 [[19](#)]
17. [17-90982](#)-D-13 ANTHONY CLARK OBJECTION TO CONFIRMATION OF  
[RDG](#)-1 PLAN BY RUSSELL D. GREER  
1-30-18 [[14](#)]
18. [14-90587](#)-D-13 PORFIRIO/PATRICIA AGUIRRE CONTINUED MOTION TO MODIFY PLAN  
[JAD](#)-1 12-26-17 [[25](#)]
19. [17-90992](#)-D-13 TANESIA LONIEN OBJECTION TO CONFIRMATION OF  
[RDG](#)-2 PLAN BY RUSSELL D. GREER  
1-29-18 [[23](#)]