

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Modesto, California

March 24, 2020 at 10:30 a.m.

ALL APPEARANCES MUST BE TELEPHONIC
(Please see the court's website for instructions.)

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 Lindsey Peratis, the Courtroom Deputy, at (916) 930-4473 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.	18-90901 -B-13	GARY/COLEEN EDWARDS	MOTION TO MODIFY PLAN
	JAD -3		2-10-20 [104]

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.

March 24, 2020 at 10:30 a.m.

2. [19-91008](#)-B-13 CYNTHIA TRUSCOTT
[RDG](#)-1

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D. GREER
1-13-20 [[15](#)]

3. [15-90609](#)-B-13 KIMBERLY MIRANDA
[JAD](#)-1

MOTION TO MODIFY PLAN
2-4-20 [[44](#)]

Final ruling:

This is the debtor's motion to confirm a modified chapter 13 plan. The motion will be denied for two reasons. First, the moving party failed to serve all creditors, as required by Fed. R. Bankr. P. 2002(a)(9). The moving party failed to serve the creditor listed on her Schedule H as co-debtor on the debtor's two home loans and two of her credit accounts. 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 co-debtors on debts of the debtor.

Second, because the debtor's master address list does not include this creditor, the debtor has failed to comply with Fed. R. Bankr. P. 1007(a)(1), which requires a debtor to include on his or her master address list the names and addresses of all parties included or to be included on his or her schedules, including Schedule H. As a result, the court's creditor list, as reflected on the court's website for this case and on the PACER matrix, does not include those creditors. Thus, that creditor has not received and will not receive notices served by the Bankruptcy Noticing Center or by creditors in the case.

It is the moving party's responsibility to serve the motion on all creditors, which, presumably, she will do when she files another motion. However, she also has a responsibility to be sure her master address list includes "each entity included . . . on Schedules D, E/F, G, and H . . ." Fed. R. Bankr. P. 1007(a)(1). Thus, the plan cannot be confirmed because the debtor has failed to comply with her duty to file a complete list of creditors, as required by § 521(a)(1)(A), as implemented by Fed. R. Bankr. P. 1007(a)(1), and thus, has not complied with § 1325(a)(1).

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

4. [19-90615](#)-B-13 GREG/TAMMY LILLARD MOTION TO CONFIRM PLAN
[BSH](#)-2 1-27-20 [[56](#)]
5. [20-90015](#)-B-13 MA RHEA PERSIC OBJECTION TO CONFIRMATION OF
[RDG](#)-1 PLAN BY RUSSELL D. GREER
3-3-20 [[24](#)]
6. [19-91116](#)-B-13 JAMES/MICHELLE GORMAN MOTION TO CONFIRM PLAN
[CLH](#)-1 2-18-20 [[22](#)]
7. [20-90017](#)-B-13 NEFTALI ALBERTO OBJECTION TO CONFIRMATION OF
[FRB](#)-1 PLAN BY 5AIF NUTMEG, LLC
2-27-20 [[25](#)]

Final ruling:

This case was dismissed on March 6, 2020. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

8. [20-90017](#)-B-13 NEFTALI ALBERTO
[RDG](#)-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
3-2-20 [[31](#)]

Final ruling:

This case was dismissed on March 6, 2020. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

9. [19-90918](#)-B-13 AMANDA THOMPSON
[BSH](#)-3

MOTION TO VALUE COLLATERAL OF
CHRYSLER CAPITAL
2-15-20 [[40](#)]

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. As such the court will grant the motion and, for purposes of this motion only, sets the creditor's secured claim in the amount set forth in the motion. Moving party is to submit an order which provides that the creditor's secured claim is in the amount set forth in the motion. No further relief is being afforded. No appearance is necessary.

10. [19-90918](#)-B-13 AMANDA THOMPSON
[RDG](#)-1

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D. GREER
12-6-19 [[18](#)]

11. [19-91019](#)-B-13 ANTHONY GODINEZ
[BSH](#)-4

MOTION TO CONFIRM PLAN
1-22-20 [[53](#)]

Tentative ruling:

This is the debtor's motion to confirm a plan. The motion will be denied as the moving party failed to serve the creditor filing Claim No. 2-1 at the address listed on its proof of claim, as required by Fed. R. Bankr. P. 2002(g). As a result of this service defect, the motion will be denied by minute order. In the alternative, the hearing will be continued to allow the moving party to cure this service defect. The court will hear the matter.

12. [19-91123](#)-B-13 JEREMY YOUNG AND MICHELLE OBJECTION TO CONFIRMATION OF
[RDG](#)-1 ROSE PLAN BY RUSSELL D. GREER
3-3-20 [[20](#)]
13. [19-91123](#)-B-13 JEREMY YOUNG AND MICHELLE OBJECTION TO CONFIRMATION OF
[APN](#)-1 ROSE PLAN BY CREDITOR WELLS FARGO
BANK, N.A.
3-10-20 [[23](#)]
14. [19-90533](#)-B-13 MARITESS PRADO MOTION TO CONFIRM PLAN
[FAT](#)-2 2-11-20 [[44](#)]

Final ruling:

This is the debtor's motion to confirm a proposed plan. According to the Proof of Service filed in support of the motion movant served only the Notice of Hearing on Motion to Confirm and Debtor's Declaration; thus, the moving party failed to serve the motion and the proposed plan. Movant apparently relies on service of the plan by BNC Notice on June 30, 2019, which is contrary to LBR 3015-1(d)(1).

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

15. [20-90134](#)-B-13 KENDALL/CYNTHIA MILLER MOTION TO VALUE COLLATERAL OF
[BSH](#)-1 GOLDEN 1 CREDIT UNION
2-18-20 [[11](#)]

Final ruling:

The motion is denied without prejudice. The creditor, Golden 1 Credit Union, was not served through its agent for service of process as required by FRBP 7004(a)(3). As a result of this service defect the court will deny the motion by minute order. No appearance is necessary.

16. [19-90644](#)-B-13 PATRICIA BRIMM CONTINUED MOTION TO CONFIRM
[DCJ](#)-1 PLAN
12-24-19 [[41](#)]

17. [19-90545](#)-B-13 EDGAR DOMINGUEZ AND MOTION TO APPLY POST-PETITION
[FAT](#)-4 MEGHAN MOORE PAYMENTS TO PRE-PETITION
ARREARS TO MORTGAGE LENDER
FREEDOM MORTGAGE CORP.
2-11-20 [[58](#)]

18. [16-90246](#)-B-13 LORENA PEREZ MOTION TO MODIFY PLAN
[JAD](#)-3 2-6-20 [[80](#)]

19. [16-90648](#)-B-13 MOHAMMAD BHUIYAN AND OBJECTION TO CLAIM OF KETAN AND
[DCJ](#)-3 MOSAMMAT AKTER ROHITA PATEL, CLAIM NUMBER 12
2-9-20 [[64](#)]

20. [19-91070](#)-B-13 RICHARD/HEATHER PETERS MOTION TO CONFIRM PLAN
[JCK](#)-2 2-11-20 [[26](#)]

Final ruling:

This is the debtors' motion to confirm an amended plan. The motion will be denied because the moving party failed to serve the U.S. Dept. of Education at its address on the Roster of Governmental Agencies, as required by LBR 2002-1(b). As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.

21. [19-90578](#)-B-13 THOMAS/CECILIA MCCAULEY MOTION TO DETERMINE SECURED
[BSH](#)-5 STATUS OF CLAIMS AND/OR MOTION
TO AVOID LIEN OF SOUTHSTAR
HOLDING CORP.
1-16-20 [[106](#)]

22. [19-90578](#)-B-13 THOMAS/CECILIA MCCAULEY MOTION TO CONFIRM PLAN
[BSH](#)-6 1-17-20 [[110](#)]

Final ruling:

This is the debtors' motion to confirm an amended plan. The moving party failed to serve the creditors filing Claim Nos. 4-1 and 5-1 at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g). As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.

23. [17-90982](#)-B-13 ANTHONY CLARK
[MLP](#)-3

MOTION TO MODIFY PLAN
2-15-20 [[46](#)]

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.

24. [19-90983](#)-B-13 KIRK TROMBLEY
[RDG](#)-1

CONTINUED OBJECTION TO DEBTOR'S
CLAIM OF EXEMPTIONS
12-23-19 [[19](#)]

25. [19-90983](#)-B-13 KIRK TROMBLEY
[RDG](#)-2

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D. GREER
12-23-19 [[16](#)]

26. [19-90889](#)-B-13 RAMIRO SALGADO
[BSH](#)-1

MOTION TO CONFIRM PLAN
1-18-20 [[42](#)]

Final ruling:

This is the debtor's motion to confirm a Chapter 13 plan. On March 17, 2020 the debtor filed an amended plan and a motion to confirm it. As a result of the filing of the amended plan, the present motion will be denied as moot. No appearance is necessary.