

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

April 12, 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.

1.	17-21700-D-12	PAUL SCHMIDT	STATUS CONFERENCE RE: VOLUNTARY PETITION 3-15-17 [1]
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2.	17-21105-D-7	SHERRY HORTON	ORDER TO SHOW CAUSE - FAILURE TO PAY FEES 3-15-17 [20]
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Final ruling:

The deficiency has been corrected. As a result the court will issue a minute order discharging the order to show cause and the case will remain open. No appearance is necessary.

3. 14-25820-D-11 INTERNATIONAL MOTION TO COMPEL
15-2140 MANUFACTURING GROUP, INC. 3-15-17 [40]
MCFARLAND V. YOUNGER, JR. ET EBS-1
AL

Tentative ruling:

This is the motion of defendants Jane Younger, et al., for an order compelling the United States Department of Justice ("DOJ") and the Federal Bureau of Investigation ("FBI") (collectively, the "Respondents") to produce witness statements generated in their criminal investigation and conviction of Deepal Wannakuwatte and ordering the Respondents to provide written responses to the defendants' subpoena served December 24, 2015. The motion was noticed pursuant to LBR 9014-1(f)(1) and the Respondents have not filed opposition. However, the court has a preliminary concern.

The moving parties served the Respondents only through a named Assistant U.S. Attorney in the office of the U.S. Attorney for this district, and failed to serve the Respondents by addressing service to the civil process clerk at the office of the U.S. Attorney for this district, failed to mail copies to the Attorney General of the United States in Washington, D.C., and failed to mail copies to the DOJ and the FBI, all as required by Fed. R. Bankr. P. 7004(b)(4) and (5) and 9014(b).

As a result of these service defects, the court intends to deny the motion. In the alternative, the court will continue the hearing to permit the moving parties to file a notice of continued hearing and serve it, together with all the moving papers, as required by the rules. The court will hear the matter.

4. 14-25820-D-11 INTERNATIONAL MOTION FOR STAY PENDING APPEAL
16-2090 MANUFACTURING GROUP, INC. 3-7-17 [197]
MCFARLAND V. CALIFORNIA BANK & WT-3
TRUST ET AL

5. 16-27620-D-7 JULIE LINCOLN
EJN-1

Final ruling:

CONTINUED TRUSTEE'S MOTION TO
DISMISS FOR FAILURE TO APPEAR
AT SEC. 341(A) MEETING AND
MOTION TO EXTEND THE DEADLINES
FOR FILING OBJECTIONS TO
DISCHARGE AND MOTIONS TO
DISMISS
2-2-17 [19]

The debtor and her counsel appeared at the continued Meeting of Creditors on April 5, 2017 and the hearing was concluded. As such the trustee's motion will be denied as moot by minute order. No appearance is necessary.

6. 17-21127-D-7 HAZEL 71, INC.
NOS-2

OBJECTION TO AUTOMATIC
DISMISSAL OF CASE
3-3-17 [12]

Final ruling:

This is the trustee's objection to the court's Notice of Incomplete Filing or Filing of Outdated Forms and Notice of Intent to Dismiss Case If Documents Are Not Timely Filed (the "Notice"). The Notice advised the debtor and debtor's counsel that certain schedules and statements must be received by the clerk's office by March 10, 2017, and that the court, without further notice, might dismiss the case if the documents were not timely filed. The trustee objected to the case being automatically dismissed if the schedules and statements were not timely filed. The trustee pointed out the debtor has filed two prior cases in this court in the past 14 months, both of which were dismissed for failure to file required documents. The trustee added that there is real property that is an asset of the estate and that the trustee may wish to sell.

On March 14, 2017, the debtor filed the schedules and statements identified in the Notice, rendering the Notice moot. As a result of the filing of the schedules and statements, the trustee's objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

7. 16-22230-D-7 NORMAN/CHERI RYAN
MPD-4

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH HARRY F. CLEW
JR. AND DEBTOR'S NORMAN RAY AND
CHERI CATHERINE RYAN
3-10-17 [61]

Final ruling:

The matter is resolved without oral argument. There is no timely opposition to the trustee's motion to approve compromise of controversy, and the trustee has demonstrated the compromise is in the best interest of the creditors and the estate. Specifically, the motion demonstrates that when the compromise is put up against the factors enumerated in In re Woodson, 839 F.2d 610 (9th Cir. 1988), the likelihood of success on the merits, the complexity of the litigation, the difficulty in collectability, and the paramount interests of creditors, the compromise should be approved. Accordingly, the motion is granted and the compromise approved. The moving party is to submit an appropriate order. No appearance is necessary.

8. 16-25239-D-7 DIVINDER HUNDAL
NOS-4

MOTION TO SELL FREE AND CLEAR
OF LIENS
3-15-17 [126]

9. 16-27439-D-7 CHRISTINA BUNNELL

MOTION TO DISMISS CASE
3-14-17 [44]

10. 14-25148-D-11 HENRY TOSTA
THB-1
CNH INDUSTRIAL CAPITAL
AMERICA, LLC VS.

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
3-1-17 [685]

11. 17-20953-D-7 MATTHEW/JASMINE POWERS
TJW-1
Final ruling:

MOTION TO COMPEL ABANDONMENT
2-24-17 [10]

The matter is resolved without oral argument. There is no timely opposition to the debtors' motion to compel the trustee to abandon property and the debtors have demonstrated the property to be abandoned is of inconsequential value to the estate. Accordingly, the motion will be granted and the property that is the subject of the motion will be deemed abandoned by minute order. No appearance is necessary.

12. 16-28160-D-7 PATRICIA GONSALVES
EJS-1
Final ruling:

MOTION TO AVOID LIEN OF
FIRESIDE BANK
3-1-17 [22]

This is the debtor's motion to avoid a judicial lien held by Fireside Bank (the "Bank"). The motion will be denied because the moving party failed to serve the Bank in strict compliance with Fed. R. Bankr. P. 7004(b)(3) or (h), whichever is applicable, as required by Fed. R. Bankr. P. 9014(b). The moving party served the Bank only through the attorneys who obtained the Bank's abstract of judgment, whereas there is no evidence those attorneys are authorized to receive service of process on behalf of the Bank in bankruptcy contested matters pursuant to Fed. R. Bankr. P. 7004(b)(3) and 9014(b). See In re Villar, 317 B.R. 88, 93 (9th Cir. BAP 2004).

According to the FDIC's website, the Bank was closed without government assistance and is no longer in operation. Thus, it appears the Bank would not be correctly served pursuant to Rule 7004(h), and service pursuant to Rule 7004(b)(3) may be appropriate. In any event, service only on the attorneys who obtained the abstract of judgment is not sufficient.

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

13. 16-28160-D-7 PATRICIA GONSALVES
EJS-2
Final ruling:

MOTION TO AVOID LIEN OF PLACER
CREDITORS BUREAU
3-1-17 [27]

This is the debtor's motion to avoid a judicial lien held by Placer Creditors Bureau ("Placer"). The motion will be denied because the moving party failed to serve Placer in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving party served Placer at a street address with no attention line, whereas the rule requires service on a corporation, partnership, or other unincorporated association to the attention of an officer, managing or general agent, or agent for service of process.

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

14. 17-21465-D-11 BELINDA SMITH
Tentative ruling:

STATUS CONFERENCE RE: VOLUNTARY
PETITION
3-7-17 [1]

This is the initial status conference in this chapter 11 case. As indicated in the court's Order to (1) File Status Report; and (2) Attend Status Conference (the "Scheduling Order"), the debtor was required to serve the Scheduling Order on certain parties listed in the Scheduling Order no later than March 24, 2017, and was required to file a chapter 11 status report no later than March 24, 2017. The debtor did neither of these things by March 24, 2017 or at any time.

The Scheduling Order advised the debtor that "[f]ailure to comply with this order may result in sanctions including dismissal, conversion, or the appointment of a trustee." As a result of the debtor's complete failure to comply with the requirements of the Scheduling Order, the court finds cause for dismissing or converting the case or appointing a chapter 11 trustee. The court is inclined to find that, of those three, dismissal of the case is in the best interest of creditors, but will hear from creditors on this issue at the status conference if, despite the lack of service of the Scheduling Order, any creditors appear.

As additional support for dismissal, conversion, or appointment of a chapter 11 trustee, the court notes that the debtor has failed to comply with the Bankruptcy Rules as follows. First, she failed to file a declaration verifying her schedules, as required by Fed. R. Bankr. P. 1008. Second, although she signed her Statement of Financial Affairs, thus verifying its contents, she left the statement completely blank. That is, not only did she not include any information in the statement, she failed even to check any of the Yes or No boxes. In other words, she filed a statement of affairs that is completely blank except for her signature and the date of her signature. The filing of a blank statement of affairs does not constitute compliance with the requirement of Fed. R. Bankr. P. 1007(b)(1)(D) that the debtor file a statement of financial affairs. Third, the debtor left her Schedules I and J completely blank. That is, she filled in none of the blank lines and checked none of the Yes or No boxes. Her filing of blank schedules constitutes a failure to comply with the requirement of Fed. R. Bankr. P. 1007(b)(1)(B) that she file a schedule of her current income and expenditures. Pursuant to Fed. R. Bankr. P. 1007(c), the debtor was required to file all schedules and statements no later than March 21, 2017. The debtor failed either to file the required schedules and statements by that date or to request additional time to do so.

For the reasons stated, the court intends to dismiss the case. The court will hear the matter.

15. 17-21266-D-11 HARD STONE CBO TRUST STATUS CONFERENCE RE: VOLUNTARY
PETITION
2-28-17 [1]

Final ruling:

This case was dismissed on March 30, 2017. As a result the motion will be denied by minute order as moot. No appearance is necessary.

16. 17-21266-D-11 HARD STONE CBO TRUST ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-14-17 [20]

Final ruling:

This case was dismissed on March 30, 2017. As a result the order to show cause will be removed from calendar as moot. No appearance is necessary.

17. 15-28170-D-7 KEVIN ARMSTEAD MOTION FOR ENTRY OF DEFAULT
17-2010 UST-1 JUDGMENT
U.S. TRUSTEE V. ARMSTEAD 3-15-17 [12]

18. 17-21083-D-7 MARIO WOODS MOTION FOR RELIEF FROM
ETW-1 AUTOMATIC STAY
UNITED 26, INC. VS. 3-7-17 [26]

Final ruling:

This case was dismissed on March 24, 2017 and as a result the automatic stay was terminated pursuant to Bankruptcy Code § 362(c)(2)(B). As a result the motion will be denied by minute order as moot. No appearance is necessary.

19. 15-29890-D-7 GRAIL SEMICONDUCTOR MOTION TO EMPLOY TAMARA D.
DNL-17 MCKEOWN AS SPECIAL COUNSEL
3-10-17 [588]
20. 16-28018-D-7 TERRENCE/NANCIE HOFMANN CONTINUED AMENDED MOTION FOR
CSR-2 RELIEF FROM AUTOMATIC STAY
JSM ENTERPRISES, INC. VS. 2-21-17 [52]
21. 17-21127-D-7 HAZEL 71, INC. MOTION TO EMPLOY CHRISTOPHER D.
NOS-1 HUGHES AS ATTORNEY
3-3-17 [9]
- Final ruling:**
- This motion was granted by an order entered on April 3, 2017. Matter removed from calendar.**
22. 16-25239-D-7 DIVINDER HUNDAL CONTINUED MOTION TO COMPEL
DAO-3 ABANDONMENT
1-18-17 [77]

23.	16-25239-D-7 NOS-3	DIVINDER HUNDAL	CONTINUED MOTION TO EXTEND TIME 2-15-17 [109]
24.	10-50658-D-7 RLC-9	ABRAHAN/NORMA RAMOS	MOTION TO AVOID LIEN OF DAL TILE SSC WEST 3-29-17 [72]
25.	17-21680-D-7 WSS-1 ART ORTEZA VS.	RONNELLE PRICE	MOTION FOR RELIEF FROM AUTOMATIC STAY 3-27-17 [14]