

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

April 19, 2016 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.	11-44601-D-13	THOMAS/JUDY ANDRES	MOTION FOR RELIEF FROM
	WFM-1		AUTOMATIC STAY
	BANK OF AMERICA, N.A. VS.		3-16-16 [37]

Final ruling:

This matter is resolved without oral argument. This is Bank of America, N.A.'s motion for relief from automatic stay. The court 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 the creditor's interest in the property is not adequately protected. Accordingly, the court finds there is cause for granting relief from stay. The court will grant relief from stay by minute order. There will be no further relief afforded. No appearance is necessary.

2. 14-30501-D-13 DENNIS/GLORIA THRELKELD MOTION TO MODIFY PLAN
JCK-4 3-15-16 [52]

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.

3. 15-29902-D-13 PETER HERRERA MOTION TO CONFIRM PLAN
MJD-2 3-8-16 [29]

4. 15-29707-D-13 ERIK/SYLVIA PATTEN MOTION TO CONFIRM PLAN
DEF-1 2-24-16 [18]

5. 16-20614-D-13 ALFONSO PULIDO OBJECTION TO CONFIRMATION OF
KLF-1 PLAN BY U.S. BANK, N.A.
3-3-16 [20]

6. 15-22818-D-13 SURINDER SINGH OBJECTION TO CLAIM OF CHAMPION
PGM-3 MORTGAGE, LLC, CLAIM NUMBER 7
2-23-16 [79]

7. 16-21825-D-13 JUAN/NADINE MORGA MOTION TO EXTEND AUTOMATIC STAY
CLH-1 3-24-16 [8]

8. 16-20231-D-13 DWIGHT MCKEE OBJECTION TO DEBTOR'S CLAIM OF
RDG-2 EXEMPTIONS
3-14-16 [19]

Final ruling:

This is the trustee's objection to the debtor's claim of exemptions. On April 1, 2016 the debtor filed an amended Schedule C. As a result of the filing of the amended Schedule C, the objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

9. 16-21047-D-13 FABIAN PELAYES MOTION TO VALUE COLLATERAL OF
PLL-1 CITIBANK, N.A.
3-9-16 [10]

Final ruling:

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

10. 15-26958-D-13 DAVIN/NICOLE LAWSON MOTION TO CONFIRM PLAN
SJS-1 2-19-16 [29]

11. 16-21469-D-13 PETER/SUSAN STREBECK MOTION TO VALUE COLLATERAL OF
MKM-1 DITECH
3-15-16 [12]

Final ruling:

This is the debtors' motion to value collateral of Ditech. The motion will be denied because the moving parties failed to serve Ditech in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving parties served Ditech, which is not an FDIC-insured institution, by certified mail. Whereas an FDIC-insured institution must be served by certified mail (Fed. R. Bankr. P. 7004(h)), a corporation, partnership, or other unincorporated association that is not an FDIC-insured institution, such as Ditech, must be served by first-class mail.

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

12. 14-30872-D-13 ARMANDO COVARRUBIAS MOTION TO MODIFY PLAN
TOG-9 2-26-16 [118]

13. 15-29775-D-13 CLIFTON/CONCEPCION AMENDED CHAPTER 13 PLAN
GAYOTIN 3-3-16 [37]

Final ruling:

This is a hearing on the debtors' amended chapter 13 plan, which, for purposes of this ruling, the court will construe as a motion to confirm the plan. The motion will be denied for the following reasons. First, when confirmation is sought of a plan that is not the debtors' original plan, the debtors must file and serve the amended plan "together with a motion to confirm it." LBR 3015-1(d)(1). Here, the debtors have not filed a motion, only an amended plan and a notice of hearing.

Second, the notice of hearing gives the address of the courthouse as 501 I Street in the caption but 1501 I Street in the text. Third, the notice of hearing states that "you have (28) days from the date of service of this notice for you to file an objection to the Modified Plan," whereas opposition to the motion must be filed at least 14 days prior to the date of the hearing. LBR 3015-1(d)(1), 9014-1(f)(1). Fourth, the notice of hearing does not include the cautionary language required by LBR 9014-1(d)(4). Fifth, the proof of service is attached to the notice of hearing, not filed separately, as required by LBR 9014-1(e)(3). Sixth, the debtors failed to serve the United States Trustee, as required by Fed. R. Bankr. P. 9034.

As a result of these procedural 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.

14.	14-30191-D-13	RICHARD/JANET BOONE	MOTION TO MODIFY PLAN
	PK-3		3-7-16 [64]

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.

15.	16-20617-D-13	CHARLES/ANNA MCKINLEY	OBJECTION TO CONFIRMATION OF
	RDG-1		PLAN BY RUSSELL D. GREER
			3-29-16 [21]

16.	15-28722-D-13	JACOB WINDING	MOTION FOR RELIEF FROM
	AP-3		AUTOMATIC STAY AND/OR MOTION
	HSBC BANK USA, NATIONAL		FOR RELIEF FROM CO-DEBTOR STAY
	ASSOCIATION VS.		4-5-16 [80]

17. 15-28722-D-13 JACOB WINDING
AP-2
WELLS FARGO BANK, N.A. VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR RELIEF FROM CO-DEBTOR STAY
4-5-16 [73]

18. 15-29725-D-13 TYESHA LINDSEY
TBK-2

CONTINUED MOTION TO CONFIRM
PLAN
2-24-16 [23]

19. 15-23828-D-13 SHERYL HUDSON
WW-5

CONTINUED MOTION TO CONFIRM
PLAN
1-29-16 [124]

20. 16-20646-D-13 JEWELL WONG
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
3-29-16 [22]

21. 16-20575-D-13 CARL CARMICHAEL
KMR-1

OBJECTION TO CONFIRMATION OF
PLAN BY U.S. BANK, N.A.
3-30-16 [28]