

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Sacramento, California

April 23 2019 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.	15-22103-D-13	MARK/LISA KAPOGIANNIS	MOTION TO MODIFY PLAN
	JCK-5		3-8-19 [59]

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.

2. 19-20608-D-13 CHE LUCKY  
RDG-1

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
3-25-19 [17]

3. 19-20110-D-13 DAVID/ANN READING  
JAD-2

MOTION TO CONFIRM PLAN  
2-25-19 [29]

4. 18-25917-D-13 DAVIE HUMPHREY  
MEV-2

MOTION TO CONFIRM PLAN  
3-11-19 [73]

**Final ruling:**

This is the debtor's motion to confirm an amended 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 an amended Schedule H filed January 15, 2019 as co-debtor on the debtor's car loan. 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 parties who are co-debtors on debts of the debtor.

Second, 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 this creditor. Because this creditor was not included on the master address list, she 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, he will do when he files another motion. However, he also has a responsibility to be sure his 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 his 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.

5. 18-25917-D-13 DAVIE HUMPHREY  
RDG-4

OBJECTION TO DEBTOR'S CLAIM OF  
EXEMPTIONS  
3-11-19 [70]

**Final ruling:**

This is the trustee's objection to the debtor's claim of exemption of his real property. The trustee objected on the ground the debtor had utilized CCP 704.730 to claim the property as exempt but had failed to indicate the dollar amount of the exemption, instead claiming "100% of fair market value up to any applicable statutory limit." On March 14, 2019, the debtor filed an amended Schedule C on which he claimed the property as exempt in a particular dollar amount. As a result of the filing of the amended Schedule C, this objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

6. 19-20617-D-7 DAISY CUARESMA  
RDG-1

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
3-25-19 [13]

**Final ruling:**

This case was converted to a Chapter 7 on April 10, 2019. As a result, this objection to confirmation of plan is overruled as moot by minute order. No appearance is necessary.

7. 18-26522-D-13 ALICIA BROWN-RILEY  
FF-2

MOTION TO CONFIRM PLAN  
3-7-19 [40]

**Final ruling:**

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied because (1) the notice of hearing gives the hearing date as April 23, 2019 in the caption but April 9, 2019 in the text; and (2) the moving party proposes to pay the secured claim of Patelco Credit Union less than the full amount of the claim based on the value of the creditor's collateral, whereas the moving party has failed to file a motion to value the collateral, as required by LBR 3015-1(i).

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

8. 18-26123-D-13 TIMOTHY GARRY  
SMJ-2

MOTION TO CONFIRM PLAN  
3-20-19 [31]

**Final ruling:**

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons: (1) the moving party gave only 34 days' notice rather than 35 days', as required by LBR 3015-1(d)(1) and applicable rules; (2) the moving party failed to use the most current version of the standard-form plan, required in this district as of November 9, 2018; and (3) the proof of service fails to demonstrate service of the documents filed. The moving papers all refer repeatedly to an amended plan; however, there is no such plan on file. The plan filed with the motion is entitled merely "Chapter 13 Plan," and is thus, based on

its title, indistinguishable from the debtor's first plan filed in the case, although it is different. Thus, it cannot be determined from the proof of service, which references "Debtor's Chapter 13 Plan," which of the two plans was served. Further, the titles of the documents listed in the proof of service do not mention an amended plan. For example, although the motion itself is titled "Debtor's Motion to Confirm Amended Chapter 13 Plan," the proof of service purports to evidence service of "Debtors' [sic] Motion to Confirm Chapter 13 Plan." The same is true of the other documents listed in the proof of service.

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

9.	18-27726-D-13	EDWARD COLOMA AND	MOTION TO CONFIRM PLAN
	JBR-1	KATHERINE SANCHEZ	3-11-19 [37]

10.	11-48830-D-13	RENNE DEVINE	MOTION TO AVOID LIEN OF
	GS-4		CITIBANK (SOUTH DAKOTA), N.A.
			3-14-19 [172]

**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. The court finds the judicial lien described in the motion impairs an exemption to which the debtor is entitled. As a result, the court will grant the debtor's motion to avoid the lien. Moving party is to submit an appropriate order, which order shall specifically identify the real property subject to the lien and specifically identify the lien to be avoided. No appearance is necessary.

11.	19-20530-D-13	LEE THONGSY	OBJECTION TO CONFIRMATION OF
	RDG-2		PLAN BY RUSSELL D. GREER
			3-25-19 [23]

**Final ruling:**

This case was dismissed on March 28, 2019. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

12. 19-20233-D-13 ALFONSO PULIDO  
GMW-2

MOTION TO CONFIRM PLAN  
3-8-19 [47]

**Final ruling:**

This is the debtor's motion to confirm an amended 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 filed his creditor schedules two weeks into the case and when he did, he included creditors who had not been listed on his master address list. Because he did not amend his master address list, when he utilized the PACER matrix for service of this motion, he failed to serve these creditors: Mendo Mill & Lumber Company Profit Sharing Plan & Trust and the San Joaquin County Tax Collector, listed on the debtor's Schedule D as being owed \$20,595 and \$6,500, respectively, and Verizon Wireless, listed on his Schedule E/F.

Second, 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 Schedules D and E/F. 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 these creditors. Because these creditors were not included on the master address list, they 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, he will do when he files another motion. However, he also has a responsibility to be sure his 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 his 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.

13. 14-27834-D-13 DORELLE WYATT  
JCK-5

MOTION TO MODIFY PLAN  
3-14-19 [79]

**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.

14. 18-21534-D-13 HECTOR/MARIA PEREZ MOTION TO CONFIRM PLAN  
BSH-3 3-6-19 [81]

**Final ruling:**

This is the debtors' motion to confirm a third amended chapter 13 plan. On March 19, 2019, the debtors filed a fourth amended plan and a motion to confirm it. As a result of the filing of the fourth amended plan, the present motion is moot. The motion will be denied as moot by minute order. No appearance is necessary.

15. 19-20441-D-13 CAROLYN VALDEZ OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D. GREER  
3-25-19 [17]

16. 18-26043-D-13 ROBERT EVANS MOTION TO CONFIRM PLAN  
BSH-1 3-26-19 [37]

**Final ruling:**

By amended notice of hearing filed March 29, 2019, the moving party has continued the hearing on this motion to May 7, 2019 at 10:00 a.m. No appearance is necessary on April 23, 2019.

17. 18-24845-D-13 VICTOR HERRADA MOTION TO CONFIRM PLAN  
PGM-4 3-12-19 [77]

18. 18-26850-D-13 JACQUELINE MCCRAE  
JCK-3

MOTION TO CONFIRM PLAN  
3-5-19 [91]

**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.

19. 19-21550-D-13 DANIEL/JAMIE DOLE  
JCK-1

MOTION TO AVOID LIEN OF  
HOMECOMING AT CREEKSIDE, LLC  
3-18-19 [9]

**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. The court finds the judicial lien described in the motion impairs an exemption to which the debtors are entitled. As a result, the court will grant the debtors' motion to avoid the lien. Moving party is to submit an appropriate order, which order shall specifically identify the real property subject to the lien and specifically identify the lien to be avoided. No appearance is necessary.

20. 18-26758-D-13 TERRY/JACQUELINE THOMAS  
JAD-2

MOTION TO CONFIRM PLAN  
3-11-19 [42]

**Final ruling:**

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied for two reasons. First, the moving parties served the IRS, which has filed a claim for \$37,169, including \$36,436 claimed as priority, at the partial address of the Franchise Tax Board and failed to serve the IRS at its address on the Roster of Governmental Agencies.

Second, because the debtors' master address list includes the IRS at the Franchise Tax Board's partial address, the debtors have 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. 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 the IRS at its Roster address. Thus, the IRS will not receive notices served by the Bankruptcy Noticing Center or by creditors in the case.

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

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

21. 19-21758-D-13 CECILIO CARDENAS  
CLH-1

MOTION TO VALUE COLLATERAL OF  
BANK OF AMERICA  
3-22-19 [9]

**Final ruling:**

This is the debtor's motion to value collateral of Bank of America (the "Bank"). On April 12, 2019, the Bank filed a stipulation signed by its counsel and the debtor's counsel which resolves the motion. As a result, the motion will be removed from calendar and the moving party shall submit a proposed order approving the stipulation, if an order has not already been submitted. No appearance is necessary.

22. 18-24963-D-13 CHENINE COTTRELL  
RDG-4

OBJECTION TO CLAIM OF CITIBANK,  
N.A., CLAIM NUMBER 11  
3-14-19 [49]

23. 19-21564-D-13 BENNY KLINE AND SHERRAL  
JCK-1 THIERRY-KLINE

MOTION TO VALUE COLLATERAL OF  
TRAVIS CREDIT UNION  
3-18-19 [8]

**Final ruling:**

This is the debtors' motion to value collateral of Travis Credit Union (the "Credit Union"). On April 11, 2019, the Credit Union filed a stipulation signed by its counsel and the debtors' counsel which resolves the motion. As a result, the motion will be removed from calendar and the moving parties shall submit a proposed order approving the stipulation, if an order has not already been submitted. No appearance is necessary.

24. 18-24984-D-13 MIKE/OLIVIA BANUELOS  
RKW-2

MOTION TO CONFIRM PLAN  
3-13-19 [75]



25. 15-29786-D-13 JERROLD CLEMENS AND MOTION TO AVOID LIEN OF  
LRR-6 SHAYLA TRAYLOR DISCOVER BANK  
3-13-19 [85]

**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. The court finds the judicial lien described in the motion impairs an exemption to which the debtors are entitled. As a result, the court will grant the debtors' motion to avoid the lien. Moving party is to submit an appropriate order, which order shall specifically identify the real property subject to the lien and specifically identify the lien to be avoided. No appearance is necessary.

26. 15-29786-D-13 JERROLD CLEMENS AND MOTION TO AVOID LIEN OF  
LRR-7 SHAYLA TRAYLOR CITIBANK (SOUTH DAKOTA), N.A.  
3-13-19 [90]

**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. The court finds the judicial lien described in the motion impairs an exemption to which the debtors are entitled. As a result, the court will grant the debtors' motion to avoid the lien. Moving party is to submit an appropriate order, which order shall specifically identify the real property subject to the lien and specifically identify the lien to be avoided. No appearance is necessary.

27. 19-20489-D-13 MICHAEL/GEORGETA SWARTZ OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D. GREER  
3-25-19 [16]

28. 19-20490-D-13 JULIE ALVES OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D. GREER  
3-25-19 [14]

29. 18-27891-D-13 LAWRENCE/JENNY BOLDON MOTION TO CONFIRM PLAN  
BSH-2 3-20-19 [28]

**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. The court finds the judicial lien described in the motion impairs an exemption to which the debtor is entitled. As a result, the court will grant the debtor's motion to avoid the lien. Moving party is to submit an appropriate order, which order shall specifically identify the real property subject to the lien and specifically identify the lien to be avoided. No appearance is necessary.

30. 16-22393-D-13 BRANDON/MONIQUE JAMORA MOTION TO MODIFY PLAN  
GSJ-4 3-4-19 [69]

31. 19-20697-D-13 TARAH TRUSKEY OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D. GREER  
3-25-19 [18]

32. 19-20233-D-13 ALFONSO PULIDO CONTINUED MOTION TO EXTEND  
GMW-1 AUTOMATIC STAY  
1-29-19 [15]

**Tentative ruling:**

This is the debtor's motion to extend the automatic stay pursuant to § 362(c)(3)(B) of the Bankruptcy Code. The debtor's motion to confirm an amended chapter 13 plan is also on this calendar. The court has issued a final ruling to deny that motion based on failure to serve all creditors and failure to file an accurate master address list. The earliest date on which the debtor could set a hearing on another motion to confirm a plan, giving the required 35 days' notice, would be June 4, 2019. Thus, the court will continue the hearing on this motion to extend the stay to that date, at 10:00 a.m., and will extend the stay to the earlier of plan confirmation or further order of the court.

The court will hear the matter.

33. 19-21066-D-13 KRISTINA BOYD  
MBW-1

OBJECTION TO CONFIRMATION OF  
PLAN BY SAFE CREDIT UNION  
4-2-19 [15]

**Final ruling:**

This is the objection of SAFE Credit Union to confirmation of the debtor's proposed chapter 13 plan. The Credit Union set the hearing for this date despite the fact that, pursuant to LBR 3015-1(c)(4) and the Notice of Chapter 13 Bankruptcy Case filed in this case, objections to confirmation were to be set for May 21, 2019, at 10:00 a.m. The hearing will be continued by minute order to that date and time. No appearance is necessary on April 23, 2019.

34. 19-22134-D-13 MAGDALENA ALVARADO  
PGM-1

MOTION TO EXTEND AUTOMATIC STAY  
O.S.T.  
4-10-19 [8]