

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Modesto, California

**May 19, 2015 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.	15-90002-D-13 PLG-1	KHALIL RAZZAQUI	MOTION TO CONFIRM PLAN 3-31-15 [24]
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2.	15-90206-D-13 MDE-1	KATRINA CHANDLER	OBJECTION TO CONFIRMATION OF PLAN BY TOYOTA MOTOR CREDIT CORPORATION 4-8-15 [15]
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3.	15-90206-D-13	KATRINA CHANDLER	OBJECTION TO CONFIRMATION OF
	RDG-1		PLAN BY RUSSELL D. GREER
			4-17-15 [21]

4.	15-90107-D-13	CONSTANCE MCCOY	MOTION TO CONFIRM PLAN
	JCK-2		4-7-15 [24]

**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.

5.	12-90213-D-13	JOHN/PAMELA HACKER	MOTION TO MODIFY PLAN
	SDM-5		3-25-15 [75]

6.	11-90514-D-13	HOWARD HANCOCK AND JOAN	MOTION TO MODIFY PLAN
	CJY-1	ALSOP	4-14-15 [59]

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| 7.  | 12-90415-D-13 | CYNTHIA CONTI<br>PPR-1<br>U.S. BANK, N.A. VS. | MOTION FOR RELIEF FROM<br>AUTOMATIC STAY AND/OR MOTION<br>FOR ADEQUATE PROTECTION<br>4-13-15 [47] |
| 8.  | 14-91517-D-13 | RONALD CLARK<br>CAH-2                         | MOTION TO CONFIRM PLAN<br>3-27-15 [36]  |
| 9.  | 15-90028-D-13 | RAFAEL REYNA<br>MLP-2                         | MOTION TO CONFIRM PLAN<br>3-28-15 [51]  |
| 10. | 12-92229-D-13 | SANDY BENNETT<br>JCK-3                        | MOTION TO INCUR DEBT<br>4-23-15 [55]  |

11. 14-90632-D-13 HUMBERTO GONZALEZ AND MOTION TO MODIFY PLAN  
JAD-1 ISABEL PANAMENO 4-2-15 [28]

**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.

12. 15-90337-D-13 LOJUANA CARTER MOTION TO DISMISS DUPLICATE  
CSL-1 CASE  
4-17-15 [11]

**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 dismiss duplicate case is supported by the record. As such the court will grant the motion and dismiss case no. 15-90337 by minute order. No appearance is necessary.

13. 13-92139-D-13 JUAN/YVETTE LARIOS MOTION TO MODIFY PLAN  
CJY-1 4-3-15 [41]

**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.

14. 11-92744-D-13 JOSE/CORA PEREZ MOTION TO MODIFY PLAN  
BSH-5 3-11-15 [115]

15. 13-90544-D-13 JOSEPH/RAEHEL BAIROS CONTINUED OBJECTION TO CLAIM OF  
CJY-2 NCI GROUP INC., CLAIM NUMBER  
8-2  
2-27-15 [44]

**Final ruling:**

The matter is resolved without oral argument. The court's record indicates that no timely opposition/response to the objection has been filed and the objection to the secured status of the claim of NCI Group, Inc., is supported by the record. Accordingly, the debtors' objection as to the secured status of the claim of NCI Group, Inc. will be sustained and the claim will be allowed as a general unsecured claim. Moving party is to submit an appropriate order. No appearance is necessary.

16. 14-91451-D-13 KAL/DEBORAH KIRKLE MOTION TO CONFIRM PLAN  
DCJ-2 3-27-15 [46]

17. 15-90156-D-13 CLAUDIA BELL OBJECTION TO CONFIRMATION OF  
RDG-2 PLAN BY RUSSELL D. GREER  
4-17-15 [20]

18. 15-90166-D-13 CONNIE GONZALEZ OBJECTION TO CONFIRMATION OF  
RDG-1 PLAN BY RUSSELL D. GREER  
4-17-15 [25]

19. 15-90167-D-13 BERNADETTE QUILES  
RDG-2

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
4-17-15 [30]

20. 14-91070-D-13 HARVEY/KIMIKO HENDRIX  
SJS-2

MOTION TO AVOID LIEN OF  
AMERICAN EXPRESS BANK, FSB  
4-10-15 [31]

**Tentative ruling:**

This is the debtors' motion to avoid a judicial lien held by American Express Bank, FSB (the "Bank"). For the following reason, the motion will be granted in part, and the lien will be avoided only to the extent it secures \$1,147 of the obligation of debtor Harvey D. Hendrix, Jr., on the judgment. The lien will not be avoided as to the balance of the amount secured by the lien, \$24,232.

Specifically, except as to the amount of \$1,147, the lien does not impair an exemption of the debtors, as required by § 522(f)(1)(A) of the Bankruptcy Code for the avoidance of a judicial lien. The lien is in the amount of \$25,379.<sup>1</sup> In their supporting declaration, the debtors state that the value of the property was \$300,000 at the time the case was filed, and that there is a deed of trust against the property on which \$265,768 is owed. The debtors have claimed an exemption of \$10,000 in the property.

Deducting the amount due on the deed of trust and the amount of the debtors' exemption from the value of the property leaves \$24,232 in equity in the property to support the judicial lien the debtors seek to avoid. Viewed another way, applying the formula set forth in § 522(f)(2)(A), the total of the judicial lien, \$25,379, the amount owed on the deed of trust, \$265,768, and the amount of the debtors' exemption, \$10,000, is \$301,147. A judicial lien is considered to impair an exemption only to the extent that this total amount exceeds the value the debtors' interest in the property would have in the absence of any liens; in this case, that value is \$300,000. The total of the judicial lien, the mortgage lien, and the exemption exceeds the value of the property by only \$1,147; thus, the judicial lien impairs the exemption only to that extent. As to the balance of the amount secured by the judicial lien, \$24,232, the lien does not impair the exemption, and the lien, to the extent of \$24,232, will remain attached to the property.

The debtors' motion acknowledges that the judicial lien is only partially avoidable; however, it arrives at different figures for the secured and unsecured portions. This is because the motion incorrectly states that the amount of the exemption the debtors have claimed in the property is \$14,274, whereas the actual amount is only \$10,000.

The court will hear the matter.

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<sup>1</sup> The original amount of the lien was \$25,849; the motion utilizes the reduced amount set forth in the Bank's proof of claim filed in this case.

21.	15-90074-D-13 EWG-1	MICHAEL BUTLER AND KATHLEEN PATE	MOTION TO CONFIRM PLAN 4-1-15 [29]
22.	15-90181-D-13 DVW-1	STANLEY/ROSEMARIE JONES	OBJECTION TO CONFIRMATION OF PLAN BY 21ST MORTGAGE CORPORATION 4-21-15 [27]
23.	15-90181-D-13 RDG-1	STANLEY/ROSEMARIE JONES	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 4-17-15 [24]
24.	14-91595-D-13 TOG-1	JAIME/CHERYL JIMENEZ	MOTION TO CONFIRM PLAN 3-27-15 [43]

25. 15-90206-D-13 KATRINA CHANDLER  
EWG-1

MOTION TO VALUE COLLATERAL OF  
TOYOTA MOTOR CREDIT COMPANY  
4-24-15 [27]

26. 13-92043-D-13 FLORIN/CORNELIA BOARU  
JDP-3

MOTION TO APPROVE LOAN  
MODIFICATION  
4-28-15 [40]

27. 13-90544-D-13 JOSEPH/RAEHEL BAIROS  
CJY-3

CONTINUED MOTION TO MODIFY PLAN  
3-24-15 [51]

**Final ruling:**

**The motion will be denied as moot. The debtors filed an amended plan on May 5, 2015, making this motion moot. As a result the court will deny the motion without prejudice by minute order. No appearance is necessary.**

28. 12-90071-D-13 ARTHUR RAMIREZ  
JDM-1  
TRAVIS CREDIT UNION VS.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY AND/OR MOTION  
FOR RELIEF FROM CO-DEBTOR STAY  
5-5-15 [58]



29.	14-91595-D-13 TOG-5	JAIIME/CHERYL JIMENEZ	MOTION TO EXTEND TIME 5-4-15 [59]
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30.	14-91599-D-13 JAD-2	CHERYL ROSS-HOLMES	MOTION TO SELL 5-5-15 [35]
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