

**UNITED STATES BANKRUPTCY COURT**

Eastern District of California

Honorable Robert S. Bardwil  
Bankruptcy Judge  
Sacramento, California

**May 22, 2018 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.   | 18-20701-D-13 | ERICA ORTEGA | CONTINUED OBJECTION TO          |
|      | MDE-1         |              | CONFIRMATION OF PLAN BY GLOBAL  |
|      |               |              | LENDING SERVICES, LLC           |
|      |               |              | 3-6-18 [22]                     |
| <br> |               |              |                                 |
| 2.   | 18-20701-D-13 | ERICA ORTEGA | CONTINUED OBJECTION TO          |
|      | RDG-3         |              | CONFIRMATION OF PLAN BY RUSSELL |
|      |               |              | D. GREER                        |
|      |               |              | 4-2-18 [30]                     |

3. 18-20701-D-13 ERICA ORTEGA MOTION TO VALUE COLLATERAL OF  
RS-1 GLOBAL LENDING SERVICES, LLC  
4-18-18 [36]

**Final ruling:**

This motion was resolved by the stipulation entered on May 17, 2018. As such the matter is removed from calendar. No appearance is necessary.

4. 17-27504-D-13 LILLIAN GLEASON MOTION TO CONFIRM PLAN  
RLG-5 4-10-18 [55]

**Final ruling:**

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons. First, the moving party failed to serve the Franchise Tax Board at its address on the Roster of Governmental Agencies, as required by LBR 2002-1(b), which is also the address on its filed proof of claim. Although the moving party utilized a PACER matrix, it was an outdated matrix - one printed on December 13, 2017; thus, with one exception, it did not include the addresses of creditors filing claims after that date. For counsel's future reference, the court notes that the address of U.S. Bank, which filed Claim No. 5, is not listed correctly on the PACER matrix. The matrix lists the address where payments are to be made, not the address where notices are to be sent. It is up to the moving party's attorney to verify that the PACER matrix is accurate or otherwise to be certain the creditor is served at the address for notice listed on the proof of claim.

For the reasons stated, the motion will be denied and the court need not address the issues raised by the trustee at this time. The motion will be denied by minute order. No appearance is necessary.

5. 18-21214-D-13 JOSE PATINO OBJECTION TO CONFIRMATION OF  
APN-1 PLAN BY TOYOTA MOTOR CREDIT  
CORPORATION  
4-3-18 [13]

6. 17-25915-D-13 CLAYTON/NANCY RAPOZA MOTION TO MODIFY PLAN  
JCK-2 4-16-18 [32]

**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.

7. 17-21917-D-13 ANTONIO/FIDELIA JACQUEZ MOTION TO CONFIRM PLAN  
TOG-4 3-29-18 [91]

8. 18-20932-D-13 RICHARD SANDOVAL OBJECTION TO DEBTOR'S CLAIM OF  
RDG-2 EXEMPTIONS  
4-16-18 [22]

**Final ruling:**

This is the trustee's objection to the debtor's claim of exemption of his projected tax refund. On May 8, 2018, the debtor amended his Schedule C and deleted the claim of exemption of the tax refund. 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.

9. 17-27534-D-13 VICTOR QUINTANA AND MARIA MOTION TO CONFIRM PLAN  
TOG-1 LUCIO 4-9-18 [45]

**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.

10. 18-21737-D-13 ANGELO/CRYSTAL KNIGHT MOTION TO AVOID LIEN OF  
JCK-1 CITIBANK, N.A.  
4-9-18 [16]

**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. 17-26044-D-13 CAROLL THOMPSON  
RDG-6

OBJECTION TO DEBTOR'S CLAIM OF  
EXEMPTIONS  
4-16-18 [82]

**Tentative ruling:**

This is the trustee's objection to the debtor's claim of exemption of \$75,890 in "unpaid wages," as they are described in the debtor's most recent amended Schedule C, under Cal. Code Civ. Proc. § 704.120(b)(5). The trustee objects on the ground that the code section allows a debtor to claim as exempt funds from unemployment and disability, whereas the debtor testified at the meeting of creditors that the legal proceeding that generated the funds was for wrongful termination. And the debtor refers to the funds in his opposition as "unpaid wages received for settlement for wrongful termination dispute and claim." Debtor's Response, DN 85, at 2:4-5.

The debtor responds, correctly, that the code section permits the exemption of "[b]enefits payable by a union due to a labor dispute." Cal. Code Civ. Proc. § 704.120(b)(5). He also cites § 704.120(b)(3), which permits the exemption of "[b]enefits payable under an employer's plan or system to supplement unemployment compensation benefits of the employees generally or for a class or group of employees." However, the record does not suggest the \$75,890 was either payable or paid by a union due to a labor dispute or benefits supplementing unemployment compensation benefits. The debtor's description of the funds in his amended Schedule B, DN 78, is to the contrary of both of those characterizations: he describes the funds as "Arbitration paid out unpaid wages from employer Aryzta, LLC, [address]." Thus, there is no basis on which to conclude the funds were payable or paid by a labor union due to a labor dispute or payable or paid under an employer's plan to supplement unemployment compensation benefits. Accordingly, the funds are not exempt under § 704.120(b)(5) nor would they be exempt under § 704.120(b)(3) if claimed under that subdivision.

For the reasons stated, the objection will be sustained. The court will hear the matter.

12. 17-27554-D-13 JASMEL/AMRIT SINGH  
AF-4

MOTION TO CONFIRM PLAN  
3-26-18 [59]

13. 18-20855-D-13 WALTER/SHIRLEY SAUNDERS  
RDG-3

OBJECTION TO DEBTOR'S CLAIM OF  
EXEMPTIONS  
4-16-18 [38]

**Final ruling:**

This is the trustee's objection to the debtors' claim of exemption of a "potential suit against Stop-IRS." On April 25, 2018, the debtors amended their Schedule C and deleted the claim of exemption of the potential suit. 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.

14. 18-21260-D-13 SHARON ADAMS-KENDRICK OBJECTION TO CONFIRMATION OF  
APN-1 PLAN BY TOYOTA MOTOR CREDIT  
CORPORATION  
4-24-18 [25]

15. 17-26461-D-7 LAZARUS/CHOO CARMICHAEL MOTION FOR RELIEF FROM  
DWE-1 AUTOMATIC STAY  
WELLS FARGO BANK, N.A. VS. 4-11-18 [19]

**CASE CONVERTED 05/01/18**

16. 17-20173-D-13 ANA FRENES MOTION TO MODIFY PLAN  
LRR-1 3-29-18 [36]

**Final ruling:**

**This is the debtor's motion to confirm a modified chapter 13 plan. On May 1, 2018, the debtor filed a different plan and a motion to confirm it. As a result of the filing of the different plan, the present motion is moot. The motion will be denied as moot by minute order. No appearance is necessary.**

17. 18-20085-D-13 JESSE MORGAN AND CHERLYN MOTION TO CONFIRM PLAN  
MKM-1 COMBS-MORGAN 4-5-18 [29]

**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.**

18. 18-20785-D-13 ARTHUR LUND CONTINUED OBJECTION TO  
RAS-1 CONFIRMATION OF PLAN BY REVERSE  
MORTGAGE SOLUTIONS, INC.  
3-7-18 [18]

19. 13-33386-D-13 WILMER/IRVINE JOHNSON MOTION TO MODIFY PLAN  
JCK-8 4-13-18 [122]

20. 18-20095-D-13 GINA CRONIN MOTION TO CONFIRM PLAN  
DCJ-1 4-4-18 [37]

**Tentative ruling:**

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied because it was not served on all creditors, as required by Fed. R. Bankr. P. 2002(b). Page 2 of the PACER matrix attached to the proof of service was not accurately printed, such that what should be creditor names and addresses - 27 of them - is instead a series of jumbled letters, numbers, and special characters.

As a result of this service defect, the motion will be denied by minute order. The court will hear the matter.

21. 18-20095-D-13 GINA CRONIN CONTINUED OBJECTION TO  
USA-1 CONFIRMATION OF PLAN BY SMALL  
BUSINESS ADMINISTRATION  
2-28-18 [29]

22. 18-21214-D-13 JOSE PATINO  
RDG-2

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
5-1-18 [17]

23. 18-21253-D-13 INGRID CONTRERAS  
RDG-1

OBJECTION TO CONFIRMATION OF  
PLAN BY RUSSELL D. GREER  
4-30-18 [17]

24. 18-21260-D-13 SHARON ADAMS-KENDRICK  
PGM-1

CONTINUED MOTION TO VALUE  
COLLATERAL OF TOYOTA FINANCIAL  
SERVICES  
4-5-18 [15]

**Tentative ruling:**

This is the debtor's motion to value collateral of Toyota Motor Credit, a 2013 Dodge Caravan. The hearing was continued from the original hearing date, May 8, 2018, at the debtor's request. On May 11, 2018, the debtor filed a notice stating she "hereby withdraws" the motion. The debtor was not free to unilaterally withdraw the motion at that time because Toyota had earlier filed opposition. See Fed. R. Civ. P. 41(a)(1) and (2), incorporated herein by Fed. R. Bankr. P. 7041 and 9014(c). Thus, the court will hear from Toyota as to whether it has any opposition to the unconditional dismissal of the motion.

25. 18-20095-D-13 GINA CRONIN  
USA-2

COUNTER MOTION TO DISMISS CASE  
5-8-18 [52]

26. 15-29725-D-13 TYESHA LINDSEY  
TBK-4

MOTION TO SELL FREE AND CLEAR  
OF LIENS O.S.T.  
5-9-18 [82]