

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

May 23, 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.	14-26801-D-13	RANDY/ROSANN SAN NICOLAS	MOTION TO MODIFY PLAN
	CJY-3		4-12-17 [51]

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. 16-28306-D-13 GABRIEL SALAZAR-PENA MOTION TO CONFIRM PLAN
TOG-1 4-11-17 [34]

3. 17-20006-D-13 THOMAS/RACHEL ESPARZA MOTION TO CONFIRM PLAN
MSN-1 3-27-17 [26]

Tentative ruling:

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied because the moving parties failed to serve all creditors, as required by Fed. R. Bankr. P. 2002(b). Specifically, the moving parties failed to serve Desiree Esparza, listed on their Schedule H as a co-debtor on a secured debt. 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 obligations of the debtors. The court notes that the debtors also failed to comply with Fed. R. Bankr. P. 1007(a)(1), which requires debtors to include on their master address list all parties included or to be included on their schedules, including Schedule H.

As a result of this service defect, the motion will be denied by minute order. Alternatively, the court will continue the hearing and allow the debtors to cure this service defect. The court will hear the matter.

4. 16-25709-D-13 ELEANOR GOMEZ MOTION TO CONFIRM PLAN
BSH-4 3-29-17 [70]

5. 17-20211-D-13 ROBERT/CYNTHIA RANGEL MOTION TO AVOID LIEN OF
JCK-4 PROFESSIONAL COLLECTION
CONSULTANTS
4-28-17 [53]

6. 17-20912-D-13 MOHAMMED SHOOSHTARI OBJECTION TO DEBTOR'S CLAIM OF
RDG-3 EXEMPTIONS
4-10-17 [28]

Final ruling:

The matter is resolved without oral argument. The court's record indicates that no timely opposition/response has been filed. The objection is supported by the record. The court will sustain the trustee's objection to exemption. Moving party is to submit an appropriate order. No appearance is necessary.

7. 17-21512-D-13 MARIANNE DANIA OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
4-24-17 [20]

8. 14-27314-D-13 JUAN HERNANDEZ AND MARIA MOTION FOR RELIEF FROM
DWE-1 ROMAN AUTOMATIC STAY AND/OR MOTION TO
WELLS FARGO BANK, N.A. VS. CONFIRM TERMINATION OR ABSENCE
OF STAY
4-18-17 [66]

Final ruling:

This matter is resolved without oral argument. This is Wells Fargo Bank, 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 the debtors do not have any legal or equitable interest in the subject property and the property is not necessary for an effective reorganization. Accordingly, the court finds there is cause for granting relief from stay. The court will grant relief from stay and waive FRBP 4001(a)(3) by minute order. There will be no further relief afforded. No appearance is necessary.

9. 17-21314-D-13 JOANNA WATERS OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
4-24-17 [19]

Final ruling:

Objection withdrawn by moving party. Matter removed from calendar.

10. 17-20829-D-13 ALBERTO DELAROSA AND MOTION TO CONFIRM PLAN
CAS-1 ESPERANZA LOREDO 4-11-17 [49]

Final ruling:

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied because (1) the moving parties failed to serve the creditor that filed Claim No. 1 at the address on its proof of claim, as required by Fed. R. Bankr. P. 2002(g), or at all; (2) the moving parties failed to serve the creditor that filed a request for special notice at DN 26 at its designated address, as required by the same rule, or at all; and (3) the moving parties failed to serve any of the six general unsecured creditors listed on their Schedule E/F at all; thus, the moving parties failed to serve all creditors, as required by Fed. R. Bankr. P. 2002(b).

As a result of these service defects, the motion will be denied and the court need not consider the issues raised by the trustee at this time. The motion will be denied by minute order. No appearance is necessary.

11. 17-22729-D-13 KULDIP SANDHU MOTION TO EXTEND AUTOMATIC STAY
HWW-1 4-25-17 [8]

12. 11-45434-D-13 STEPHEN/LISA PARRAS MOTION FOR ENTRY OF DEFAULT
17-2026 NDB-1 JUDGMENT
PARRAS ET AL V. JPMORGAN CHASE 3-29-17 [7]
BANK, N.A.

13. 14-25149-D-13 SCOTT/SHEILA BOLLENGIER MOTION TO MODIFY PLAN
JCK-2 4-17-17 [47]

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.	16-25055-D-13 HWW-7	HANK WALTH	MOTION TO CONFIRM PLAN 3-29-17 [77]
15.	16-28157-D-13 LRR-3	MARK/JEANETTE WEBER	CONTINUED MOTION TO CONFIRM PLAN 2-22-17 [29]
16.	17-21462-D-13 RDG-2	ERNESTO CASILLAS	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 4-24-17 [25]
17.	16-22368-D-13 SLH-1	JAIME/HELEN GRACE AREVALO	MOTION TO SELL 4-14-17 [29]

18. 17-21469-D-13 AMY EVANS
RDG-2

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
4-24-17 [40]

19. 09-38077-D-13 JACK/CHRISTINA GONZALES
LRR-4

MOTION TO VALUE COLLATERAL OF
COMERICA BANK
3-23-17 [97]

Final ruling:

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

20. 17-21079-D-13 CAROL/BOBBIE STEPPS
CLH-1

MOTION TO VALUE COLLATERAL OF
STATE OF CALIFORNIA FRANCHISE
TAX BOARD
4-25-17 [33]

21. 17-21079-D-13 CAROL/BOBBIE STEPPS
CLH-2

MOTION TO VALUE COLLATERAL OF
THE UNITED STATES INTERNAL
REVENUE SERVICE
4-25-17 [37]

Tentative ruling:

This is the debtors' motion to value the collateral securing the claim of the Internal Revenue Service ("IRS"). The IRS has filed opposition. For the following reasons, the court intends to grant the motion, or in the alternative, to continue the hearing to allow the IRS to have the property appraised.

The debtors contend the value of the property that is the IRS's collateral is \$175,000. The debtors' only evidence is the declaration of debtor Bobbie Charles Stepps, who testifies, "As of the date of filing[,] the value of my home was \$175,000." In contrast, the IRS contends certain online sources indicate the property was last sold in 2003 for \$355,000 and is currently valued at \$471,061. The IRS has not submitted printouts of those online reports but contends the debtors

have failed to meet their burden of proof, and therefore, the motion should be denied. In the alternative, the IRS requests an opportunity to obtain an appraisal.

The court's concern is this. The IRS does not appear to dispute that its tax lien is junior to a deed of trust on which \$133,130 is owed and a tax lien of the Franchise Tax Board ("FTB") on which \$368,052 is owed, according to the FTB's proof of claim. Thus, even if the property is worth \$471,061, as the IRS claims, the excess value over and above the debtors' claimed value is still not enough to fully secure the FTB's claim [\$471,061 - \$133,130 deed of trust - \$368,052 FTB = <\$30,121>] and it appears there is no value for the IRS's lien.

If the IRS still wishes to obtain an appraisal, the court will continue the hearing for that purpose. Otherwise, the court intends to grant the motion. The court will hear the matter.

22. 17-21181-D-13 JACOB ESTRADA
RDG-2

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
4-24-17 [32]

Final ruling:

This case was dismissed on April 26, 2017. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

23. 17-21381-D-13 SANDRA SANDERS
RDG-2

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
4-24-17 [18]

24. 15-26686-D-13 DANNY PATCH
PGM-1

MOTION TO SELL
4-27-17 [22]

25. 16-22896-D-13 BERNARD/BARBARA VIGIL MOTION TO MODIFY PLAN
MJD-1 4-12-17 [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 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.

26. 17-21196-D-13 MICHAEL/IMEE TAGORDA MOTION TO VALUE COLLATERAL OF
MKM-2 BROTHERS AUTO CONNECTION
4-25-17 [24]

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. As such the court will grant the motion and, for purposes of this motion only, sets the creditor's secured claim in the amount set forth in the motion. Moving party is to submit an order which provides that the creditor's secured claim is in the amount set forth in the motion. No further relief is being afforded. No appearance is necessary.

27. 12-21997-D-13 JUANITA WIGGINS MOTION TO VALUE COLLATERAL OF
CJY-4 GREEN TREE SERVICING, LLC
4-21-17 [70]

Final ruling:

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

28. 17-21803-D-13 WILLIAM/MAGDALENA MERCER CONTINUED MOTION TO VALUE
JCK-1 COLLATERAL OF EXETER FINANCE
CORPORATION
3-31-17 [14]

Tentative ruling:

This is the debtors' motion to value collateral of Exeter Finance Corporation ("Exeter"). The hearing was continued to require the moving parties to serve Exeter through the entity that had requested special notice on Exeter's behalf over a week before the motion was filed. As required by the court's original ruling, the moving parties filed a notice of continued hearing and served it, together with the motion and related documents, through the entity that had requested special notice. The continued notice of hearing, however, was a notice pursuant to LBR 9014-1(f)(1) in

that it purported to require the filing of written opposition 14 days prior to the continued hearing date. As the notice of continued hearing provided only 13 days' notice of the hearing, Exeter could not have complied. Therefore, the court will conduct the hearing as a preliminary hearing to determine whether Exeter wishes to file opposition, and if so, the court will set a briefing schedule.

The court will hear the matter.

29. 17-21803-D-13 WILLIAM/MAGDALENA MERCER MOTION TO VALUE COLLATERAL OF
JCK-1 EXETER FINANCE CORPORATION
5-10-17 [33]

Final ruling:

This motion, filed by the debtors on May 10, 2017 at DN 33, is a duplicate of the motion filed by the debtors on March 31, 2017, at DN 14. As such, it will be removed from calendar.

30. 17-21532-D-13 TIMOTHY BROOKS OBJECTION TO CONFIRMATION OF
AP-1 PLAN BY THE BANK OF NEW YORK
MELLON
5-3-17 [41]

31. 17-21547-D-13 DAVID JARRETT OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY TRUSTEE RUSSELL D.
GREER
5-2-17 [15]

32. 12-25171-D-13 JESUS/JUANA FUENTES MOTION TO VALUE COLLATERAL OF
CJY-4 WELLS FARGO BANK
5-8-17 [66]
33. 17-20974-D-13 KAREEM SYKES CONTINUED OBJECTION TO
RDG-2 CONFIRMATION OF PLAN BY RUSSELL
D. GREER
4-10-17 [20]
34. 17-22396-D-13 CYNTHIA/PAUL MARSH CONTINUED MOTION TO EXTEND
HWW-1 AUTOMATIC STAY
4-11-17 [6]
35. 17-23075-D-13 LORA ROBERTSON AND DONNIE MOTION TO EXTEND AUTOMATIC STAY
FF-1 NAVIDAD O.S.T.
5-12-17 [8]

Tentative ruling:

This is the debtors' motion to extend the automatic stay pursuant to § 362(c)(3)(B). There are significant procedural problems. First, the caption of the notice of hearing gives the hearing date as May 23, 2017 but the text gives the date as May 30, 2017 - immediately following the words "The hearing will take place at:". Further, as to the location of the hearing, the caption of the notice lists "Courtroom 34," but not the address in Sacramento or even "Sacramento," whereas the text, also under "The hearing will take place at:", says "Suite 4, 1200 I Street, Modesto, CA." These errors would be problematic in any motion, but they are especially so here, where the notice requires no advance written opposition and states instead that "opposition, if any, shall be presented at the hearing." Finally, the proof of service is unsigned. These are all problems the debtors' counsel will need to address at the hearing.

The court will hear the matter.

36.	17-23333-D-13	SONIA MCDADE-THREADGILL	MOTION TO IMPOSE AUTOMATIC STAY
	PGM-1		O.S.T.
			5-17-17 [9]