

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Modesto, California

May 24, 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.	11-90911-D-13 CJY-1	GUILLERMO/KAREN BARRAGAN	MOTION TO VALUE COLLATERAL OF JP MORGAN CHASE BANK, N.A. 4-27-16 [56]
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Final ruling:

This is the debtors' motion to value collateral of JPMorgan Chase Bank (the "Bank"); namely, a second deed of trust against the debtors' residence. The motion states that the amount due on the senior lien, held by FNMA/Seterus, Inc., is \$309,197 and the amount due on the Bank's lien is \$93,307. However, the debtor's supporting declaration states that the amount due on the senior lien, held by Aurora Loan Servicing, is \$769,432 and the amount due on the Bank's lien is \$138,544. The hearing will be continued to June 7, 2016 at 10:00 a.m., the debtors to file and serve a notice of continued hearing and an amended motion or amended declaration, depending on which is accurate and which is inaccurate. The hearing will be continued by minute order. No appearance is necessary on May 24, 2016.

2. 16-90115-D-13 JOANN MORGAN OBJECTION TO DEBTOR'S CLAIM OF
RDG-3 EXEMPTIONS
4-11-16 [31]

Final ruling:

This case was dismissed on April 26, 2016. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

3. 16-90116-D-13 VICTOR MANUEL MENDOZA MOTION FOR RELIEF FROM
MDE-2 AUTOMATIC STAY
WELLS FARGO BANK, N.A. VS. 4-19-16 [29]

Final ruling:

This case was dismissed on April 26, 2016. As a result the motion will be denied by minute order as moot. No appearance is necessary.

4. 16-90141-D-13 REYNALD/ELVIRA WANCE OBJECTION TO DEBTORS' CLAIM OF
RDG-2 EXEMPTIONS
4-11-16 [23]

Final ruling:

This is the trustee's objection to the debtors' claim of exemption of their real property. The basis of the objection is that the debtors failed to list the dollar amount of the claimed exemption. On May 2, 2016, the debtors filed an amended Schedule C on which they listed the dollar amount of that claimed exemption. 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.

5. 11-90646-D-13 LAMBERT/MICHELE ADI MOTION TO VALUE COLLATERAL OF
CJY-1 HFC/HSBC MORTGAGE
4-27-16 [53]

6. 16-90053-D-13 CHRIS CRUM
WS-1

MOTION TO CONFIRM PLAN
4-5-16 [17]

7. 16-90159-D-13 ASHUR SHIBA
CJY-1

MOTION TO VALUE COLLATERAL OF
INTERNAL REVENUE SERVICE
4-25-16 [22]

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.

8. 16-90159-D-13 ASHUR SHIBA
MRG-1

AMENDED OBJECTION TO
CONFIRMATION OF PLAN BY
CHRISTIANA TRUST
4-28-16 [29]

9. 16-90159-D-13 ASHUR SHIBA
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
4-25-16 [19]

10. 16-90160-D-13 ISAAC GUZMAN
PPR-1

OBJECTION TO CONFIRMATION OF
PLAN BY U.S. BANK, N.A.
4-18-16 [17]

11. 16-90161-D-13 LINDA EXPOSE
RDG-2

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
4-25-16 [18]

12. 16-90162-D-13 KEVIN/NICOLE ARROUZET
MDE-1

OBJECTION TO CONFIRMATION OF
PLAN BY U.S. BANK, N.A.
4-15-16 [18]

Tentative ruling:

This is U.S. Bank's objection to confirmation of the debtors' proposed chapter 13 plan. The Bank alleges the plan fails to provide for a pre-petition arrearage in the amount of \$1,038.31. The debtors have filed a declaration in response, in which they claim they have made all required mortgage payments. They have filed as exhibits copies of their mortgage statements for January through April of 2016. They contend the statements show "no past payments owed and/or due" and "no late or missed payments." Debtors' Decl., DN 22, at 2:5-6.

It appears the debtors' position fails to account for the difference between the due date of a mortgage payment and the date a late fee will be imposed if the payment is not made. The mortgage statements show each payment's "due date" as the first day of the month; they also state a late fee may be charged if the payment is received after the 16th of the month. In particular, the statement for March 2016 (dated February 10, 2016) states that the "Scheduled Due Date" and the "Loan Due Date" are both March 1, 2016. The debtors filed their petition that day, March 1. According to a handwritten notation on the statement, presumably in the handwriting of one of the debtors, the payment was made March 2 by check. According to the statement for April 2016, the payment was received March 7. Thus, it is arguable that when the debtors' petition was filed, on March 1, they were in default of their payment due March 1. On the other hand, the debtors' petition was filed at 10:51

a.m.; thus, arguably, they were not in default at that time because the payment was not "due" until the end of the day.

If this matter is not resolved by the parties, they will need to brief the issue of the legal effect of the timing of the petition and the due date of the March payment. The court will hear the matter.

- 1 The amount of the arrearage claimed by the Bank is \$1,038.31, which differs by only three cents from the amount of the principal and interest portions of the March payment, as shown on the March statement ($\$372.14 + \$666.14 = \$1,038.28$).

13. 16-90167-D-13 LORENZO OJEDA
SSA-2

OBJECTION TO CONFIRMATION OF
PLAN BY ARTHUR SANCHEZ AND
BEATRIZ S. SANCHEZ
4-26-16 [43]

Tentative ruling:

This is the objection of Arthur Sanchez and Beatriz Sanchez, trustees, to confirmation of the debtor's proposed chapter 13 plan. The objection was noticed pursuant to LBR 9014-1(f)(1), whereas per the court's local rule, the objection was required to be noticed pursuant to LBR 9014-1(f)(2), with notice that no written response would be necessary. LBR 3015-1(c)(4). The court reminds the creditors' counsel of this procedure for future reference. The court will hear the matter.

14. 16-90177-D-13 TROY/CHARIA SHEETS
MDE-1

OBJECTION TO CONFIRMATION OF
PLAN BY TOYOTA MOTOR CREDIT
CORPORATION
4-22-16 [19]

15. 16-90178-D-13 RICKY/JENNIFER SILVA
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
4-25-16 [12]

Final ruling:

Objection withdrawn by moving party. Matter removed from calendar.

16. 15-90281-D-13 JOSEPH CALDERON MOTION TO MODIFY PLAN
JAD-3 4-11-16 [58]

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.

17. 11-90594-D-13 MICHAEL/JENNIFER MENDES MOTION TO VALUE COLLATERAL OF
CJY-1 REAL TIME RESOLUTIONS, INC.
4-27-16 [62]

18. 15-91197-D-13 CATHERINE CORINA MOTION TO CONFIRM PLAN
PGM-3 4-12-16 [103]

19. 13-91898-D-13 ROY/DORENE CORSON MOTION TO MODIFY PLAN
BSH-6 4-11-16 [75]

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.

20. 14-91599-D-13 CHERYL ROSS-HOLMES
MSN-1

MOTION TO MODIFY PLAN
4-12-16 [50]

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.

21. 13-91612-D-13 DEBRA MCCONNICO
MSN-1

MOTION TO INCUR DEBT
5-6-16 [36]

22. 16-90167-D-13 LORENZO OJEDA
SSA-3

MOTION TO DISMISS CASE
4-29-16 [49]

23. 16-90167-D-13 LORENZO OJEDA
SSA-1
ARTHUR SANCHEZ, ET AL. VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
4-25-16 [36]

Final ruling:

This matter is resolved without oral argument. This is Arthur Sanchez, et al.'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.

24. 11-91483-D-13 DANIEL/LAURA ALKEMA
DEF-6

CONTINUED MOTION TO APPROVE
LOAN MODIFICATION
4-15-16 [92]