

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Modesto, California

June 25, 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.	19-90005-D-13 MSN-2	JEFFREY PAPPAS AND CLARA DEL GADO RENTERIA PAPPAS	MOTION TO CONFIRM PLAN 4-23-19 [31]
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Final ruling:

This case was dismissed on May 29, 2019. As a result the motion will be denied by minute order as moot. No appearance is necessary.

2.	19-90305-D-13 RDG-1	DANI IBRAHIM AND ATOURINA NISANO	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 5-24-19 [15]
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3. 18-90806-D-13 JULIANA PIERI-BELL MOTION TO MODIFY PLAN
RK-1 5-14-19 [38]

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.

4. 17-91007-D-13 JOANN LOPES MOTION TO MODIFY PLAN
JAD-2 5-13-19 [55]

5. 19-90307-D-13 JAY WHITAKER OBJECTION TO CONFIRMATION OF
RDG-2 PLAN BY RUSSELL D. GREER
5-24-19 [39]

Final ruling:

This is the trustee's objection to confirmation of the debtor's proposed chapter 13 plan. On June 13, 2019, the debtor filed an amended plan. As a result of the filing of the amended plan, the present objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

6. 18-90714-D-13 JARED MEEK AND LAUREN MOTION TO CONFIRM PLAN
BSH-7 LONGWELL 5-8-19 [69]

7. 19-90314-D-13 LINDA EXPOSE OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
5-24-19 [17]

Final ruling:

This is the trustee's objection to confirmation of the debtor's proposed chapter 13 plan. On June 4, 2019, the debtor filed an amended plan, although she has not filed a motion to confirm it. As a result of the filing of the amended plan, the trustee's objection is moot. The objection will be overruled as moot by minute order. The debtor should understand this does not mean her amended plan will be confirmed. No appearance is necessary.

8. 18-90924-D-13 MOSES/TONYA SMITH MOTION TO CONFIRM PLAN
BSH-3 5-17-19 [39]

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.

9. 18-90929-D-13 BRENDA STREET MOTION TO CONFIRM PLAN
BSH-2 5-15-19 [54]

Final ruling:

This case was dismissed on May 29, 2019. As a result the motion will be denied by minute order as moot. No appearance is necessary.

10. 19-90141-D-13 JOHN VIEIRA MOTION TO CONFIRM PLAN
RKW-1 5-16-19 [31]

11. 16-90657-D-13 TODD BRANDT
BSH-2

MOTION TO MODIFY PLAN
5-13-19 [49]

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.

12. 18-90457-D-13 MAHESH GANDHI
DCJ-3

CONTINUED AMENDED MOTION TO
CONFIRM PLAN
3-19-19 [62]

13. 18-90457-D-13 MAHESH GANDHI
DCJ-4

OBJECTION TO CLAIM OF SAN
JOAQUIN COUNTY TAX COLLECTOR,
CLAIM NUMBER 2
5-21-19 [70]

14. 18-90666-D-13 SHANNON JENKINS
BSH-3

MOTION TO CONFIRM PLAN
5-15-19 [52]

15. 17-90869-D-13 KAY PARKER
18-9005
PARKER V. MID VALLEY
FINANCIAL, INC. ET AL

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF MELLEN LAW FIRM
FOR DUNCAN MCGEE NEFCY,
PLAINTIFFS ATTORNEY(S)
5-22-19 [91]

Tentative ruling:

The notice of hearing states that interested parties have until 14 days before the hearing date to file any written opposition, but does not include the cautionary language required by LBR 9014-1(d)(3)(B)(ii) or any similar caution. As a result, the court will hear the matter as a motion noticed pursuant to LBR 9014-1(f)(2).

16. 17-90869-D-13 KAY PARKER
18-9016
DEOL V. PARKER

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF MELLEN LAW FIRM
FOR DUNCAN MCGEE NEFCY,
DEFENDANTS ATTORNEY(S)
5-22-19 [103]

**ADVERSARY PROCEEDING CLOSED:
12/19/2018**

Tentative ruling:

The notice of hearing states that interested parties have until 14 days before the hearing date to file any written opposition, but does not include the cautionary language required by LBR 9014-1(d)(3)(B)(ii) or any similar caution. As a result, the court will hear the matter as a motion noticed pursuant to LBR 9014-1(f)(2).

17. 18-90672-D-13 ENNIE WILLIAMS
BSH-4

MOTION TO CONFIRM PLAN
5-9-19 [66]

18. 16-90775-D-13 KANDACE ATKINS
BSH-8

MOTION TO MODIFY PLAN
5-10-19 [85]

Final ruling:

This is the debtor's motion to confirm a modified 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 a creditor listed on her Schedule G as party to a residential lease with the debtor. 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 to unexpired leases with the debtor.

Second, the debtor 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 G. Here, the moving party scheduled the creditor's name without an address. 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's address. Because this creditor's address was not included on the master address list, the creditor will not receive notices served by the Bankruptcy Noticing Center or by creditors in the case. Unless the debtor demonstrates she has no last known address for this creditor and cannot obtain one by means of a reasonable search, she must add the creditor to her master address list, as required by Fed. R. Bankr. P. 1007(a), and must serve any future motions to confirm a plan on this creditor.

It is the moving party's responsibility to serve the motion on all creditors, which, presumably, she will do when she files another motion. However, she also has a responsibility to be sure her 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 her 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.

19. 19-90278-D-13 JODY JOHNS
AP-1

OBJECTION TO CONFIRMATION OF
PLAN BY QUICKEN LOANS INC.
5-29-19 [22]

20. 19-90285-D-13 BOUNYAKONE TANAKHONE
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
5-24-19 [14]

21. 19-90385-D-13 MIGUEL GUTIERREZ
TOG-1

MOTION TO VALUE COLLATERAL OF
ONEMAIN FINANCIAL
5-25-19 [13]

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.

22. 19-90385-D-13 MIGUEL GUTIERREZ
TOG-2

MOTION TO VALUE COLLATERAL OF
TIDEWATER MOTOR CREDIT
5-25-19 [18]

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.

23. 19-90291-D-13 LUIS ALCANTARA
KR-1
YAMAHA MOTOR FINANCE CORP.
VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-29-19 [21]

24. 19-90291-D-13 LUIS ALCANTARA
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
5-24-19 [18]

Final ruling:

This is the trustee's objection to confirmation of the debtor's proposed chapter 13 plan. On May 31, 2019, the debtor filed an amended plan and a motion to confirm it. As a result of the filing of the amended plan, the present objection is moot. The objection will be overruled as moot by minute order. No appearance is necessary.

25. 18-90594-D-13 AMANDA SMITHCAMP CONTINUED MOTION TO MODIFY PLAN
MB-2 4-17-19 [58]
26. 19-90294-D-13 WERNER/TAMI FELDHAUS OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
5-24-19 [16]
27. 18-90337-D-13 MICHAEL/JOSEFINA GORMAN CONTINUED MOTION TO MODIFY PLAN
PGM-2 4-28-19 [43]
28. 18-90644-D-13 CARRIE FLORES MOTION FOR ORDER REGARDING
JBA-2 UNEARNED AND UNPAID ATTORNEY'S
FEES
6-4-19 [56]

Tentative ruling:

This is an application for an order regarding so-called unearned and unpaid attorney's fees in this case. The court intends to continue the hearing to require additional notice. The notice of hearing states that "pursuant to Local Bankruptcy Rule 9014-1(f)(1) written opposition must be filed at least 14 days prior to the June 25, 2019 hearing. A failure to oppose the motion may result in the relief sought being granted." In contrast, the moving party gave only 21 days' notice of the hearing rather than the 28 days' required for a notice purporting to require advance written opposition. The court will hear the matter.

29. 19-90307-D-13 JAY WHITAKER
AHN-1

MOTION TO SELL O.S.T.
5-24-19 [34]