

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

July 30, 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.	19-20200-D-13 WLG-1	KIMAKO STRICKLAND	MOTION TO CONFIRM PLAN 6-24-19 [33]
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2.	19-23000-D-13 RDG-1	JUAN/DENISE SANZBERRO	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 6-28-19 [15]
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3. 19-23100-D-13 REVOYDA STARLING
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
6-28-19 [17]

Final ruling:

This is the trustee's objection to confirmation of the debtor's original chapter 13 plan. On July 15, 2019, the debtor filed an amended plan and set it for hearing. As a result of the filing of the amended plan, this objection is moot. The objection will be overruled by minute order. No appearance is required.

4. 19-22502-D-13 JEFFERY/JEANETTE GATLIN
PGM-1

MOTION TO VALUE COLLATERAL OF
FIRST INVESTORS FINANCIAL
SERVICES, INC.
6-8-19 [24]

Tentative ruling:

This is the debtors' motion to value collateral of First Investors Financial Services, Inc. ("First Investors"). First Investors has filed opposition. For the following reasons, the motion will be denied.

The collateral is a 2013 Nissan Frontier. The debtors testify that in their opinion, the replacement value of the vehicle when this case was filed was \$8,000. They base this estimate solely on their familiarity with the condition of the car "and the general values of 2013 Nissan Frontier's of this year, and with [their] particular options." Thus, their opinion, at least in part, is based on hearsay and is without foundation.

First Investors, on the other hand, claims the replacement value is \$13,575, based on an NADA Guides printout showing that amount as the "clean retail" value of a similar vehicle, with the mileage reported by the debtors. That value is \$5,575 higher than the debtors' alleged value. The debtors did not, apparently, start with either an NADA Guide or Kelley Blue Book valuation. It is impossible to determine how they arrived at their value. They have submitted no evidence as to the likely cost to make the repairs cited in their declaration and have offered no explanation as to the discrepancy between their alleged value and that of First Investors.

Absent other evidence, the court might give sufficient weight to the debtors' testimony to grant the motion. First Investors' NADA Guide valuation, however, carries significantly greater weight. The court is not persuaded the relatively minor deficiencies in the car's appearance and a possible transmission problem reduce the value substantially, and in any event, the debtors have failed to demonstrate the amount by which the value should be reduced. The court concludes the debtors have failed to carry their burden of demonstrating that the value of the vehicle is any amount less than \$13,575.

Because the debtors have failed to satisfy their burden of proof, the motion will be denied. There is no middle ground here for an alternative ruling because the amount due First Investors, \$12,625.42, is less than the replacement value of the vehicle, \$13,575.

The court will hear the matter.

5. 15-22103-D-13 MARK/LISA KAPOGIANNIS MOTION TO MODIFY PLAN
JCK-6 5-30-19 [67]

6. 19-21005-D-13 ELINOR BANKS MOTION TO CONFIRM PLAN
LRR-2 6-7-19 [52]

Final ruling:

This is the debtor's motion to confirm an amended plan. The motion will be denied for the following reasons: (1) the moving party failed to serve the creditors filing Claim Nos. 9, 10, and 11 at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g); (2) the moving party failed to serve the proposed amended plan with the motion, apparently relying on service of the plan on April 11, 2019, with an earlier motion to confirm, contrary to LBR 3015-1(d)(1); and (3) the moving party failed to serve the U.S. Dept. of Education at its address on the Roster of Governmental Agencies, as required by LBR 2002-1(b).

As a result of these service defects, the motion will be denied by minute order. No appearance is necessary.

7. 18-21606-D-13 PHILLIP/KIMBERLY ORTIZ MOTION TO MODIFY PLAN
JCK-1 6-18-19 [36]

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.

8. 19-20110-D-13 DAVID/ANN READING MOTION TO CONFIRM PLAN
JAD-3 6-11-19 [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 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. 19-22311-D-13 AURORA CAYABYAB CONTINUED OBJECTION TO
RDG-1 CONFIRMATION OF PLAN BY RUSSELL
D. GREER
6-10-19 [14]

Final ruling:

Objection withdrawn by moving party. Matter removed from calendar.

10. 19-22818-D-13 ADRIAN GESMUNDO OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
6-28-19 [27]

11. 19-22519-D-13 CURTIS/BIANCA PERNICE CONTINUED MOTION TO SELL
JCK-1 6-7-19 [19]

12. 19-22519-D-13 CURTIS/BIANCA PERNICE CONTINUED OBJECTION TO
RDG-1 CONFIRMATION OF PLAN BY RUSSELL
D. GREER
6-10-19 [23]

13. 18-26522-D-13 ALICIA BROWN-RILEY MOTION TO CONFIRM PLAN
FF-5 6-21-19 [74]

Final ruling:

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied because the proof of service evidences service of the motion, notice of hearing, and declaration, but not the plan itself, as required by LBR 3015-1(d)(1).

As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.

14. 17-25225-D-13 CHRIS NGUYEN AND AMANDA MOTION TO MODIFY PLAN
MC-4 CHANG 6-24-19 [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 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.

15. 14-28026-D-13 MIGUEL/MARTHA GOMEZ MOTION TO AVOID LIEN OF ASSET
RLG-4 ACCEPTANCE LLC
7-1-19 [131]

Final ruling:

This is the debtors' motion to avoid a judicial lien held by Asset Acceptance LLC. The motion will be denied because the moving parties failed to serve Asset Acceptance in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving parties served Asset Acceptance through Midland Credit Management as its agent, as listed on Asset Acceptance's proof of claim. The moving parties were required to serve Asset Acceptance to the attention of an officer, managing or general agent, or agent for service of process, whereas there is no evidence Midland Credit Management, although it filed a proof of claim for Asset Acceptance, serves in any of those capacities for Asset Acceptance for the purpose of receiving service of process in bankruptcy adversary proceedings and contested matters.

As a result of this service defect, the motion will be denied by minute order. No appearance is necessary.

16. 18-27726-D-13 EDWARD COLOMA AND MOTION TO CONFIRM PLAN
JBR-1 KATHERINE SANCHEZ 6-11-19 [69]

Final ruling:

Motion withdrawn by moving party. Matter removed from calendar.

17. 19-21327-D-13 JAVIER/JAMIE SILVA MOTION TO CONFIRM PLAN
JCK-1 6-3-19 [26]

18. 19-21229-D-13 MELISSA ELIZABETH SIMPSON MOTION TO CONFIRM PLAN
TBK-2 6-19-19 [33]

Final ruling:

This is the debtor's motion to confirm an amended 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 the two creditors listed on her Schedule H as co-debtors on the debtor's two car loans. 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 co-debtors on debts of the debtor.

Second, because the debtor's master address list does not include those two creditors, the debtor has 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 H. 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 those creditors. Thus, those creditors have not received and will not receive notices served by the Bankruptcy Noticing Center or by creditors in the case.

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. 15-24334-D-13 RICHARD GOVIA MOTION TO MODIFY PLAN
MLA-6 5-31-19 [116]
20. 19-22134-D-13 MAGDALENA ALVARADO CONTINUED OBJECTION TO
RDG-1 CONFIRMATION OF PLAN BY RUSSELL
D. GREER
5-24-19 [29]
21. 18-27740-D-13 HENRIETTA DEBROUWER MOTION TO CONFIRM PLAN
MJD-4 6-21-19 [76]
22. 18-26043-D-13 ROBERT EVANS MOTION TO CONFIRM PLAN
BSH-2 5-7-19 [53]

Final ruling:

This is the debtor's motion to confirm a second amended chapter 13 plan. Later the same day this motion was filed, the debtor filed a third amended plan and a motion to confirm it. As a result of the filing of the third amended plan, this motion is moot. The motion will be denied as moot by minute order. No appearance is necessary.

23.	18-26043-D-13 BSH-3	ROBERT EVANS	MOTION TO CONFIRM PLAN 5-7-19 [58]
24.	18-25445-D-13 RDG-5	JAMAICA MOON AND VIDAL DANIELS	OBJECTION TO CLAIM OF DEPARTMENT STORES NATIONAL BANK, CLAIM NUMBER 16 6-27-19 [68]
25.	18-25445-D-13 RDG-6	JAMAICA MOON AND VIDAL DANIELS	OBJECTION TO CLAIM OF CITIBANK, N.A., CLAIM NUMBER 17 6-27-19 [71]
26.	18-25445-D-13 RDG-7	JAMAICA MOON AND VIDAL DANIELS	OBJECTION TO CLAIM OF CITIBANK, N.A., CLAIM NUMBER 18 6-27-19 [74]

27. 18-25445-D-13 JAMAICA MOON AND VIDAL OBJECTION TO CLAIM OF CITIBANK,
RDG-8 DANIELS N.A., CLAIM NUMBER 19
6-27-19 [77]
28. 16-22147-D-13 ANGELO CODINACK AND MOTION FOR SUBSTITUTION AS THE
MC-3 VICTORIA BRAUN REPRESENTATIVE FOR ANGELO
MICHAEL CODINACK AND FOR
CONTINUED ADMINISTRATION OF
CASE
6-19-19 [49]
29. 19-23047-D-13 ROBERT/SOPHIA BLANTON OBJECTION TO CONFIRMATION OF
RDG-2 PLAN BY RUSSELL D. GREER
6-28-19 [27]
30. 19-23047-D-13 ROBERT/SOPHIA BLANTON OBJECTION TO DEBTOR'S CLAIM OF
RDG-3 EXEMPTIONS
6-28-19 [30]

Tentative ruling:

This is the trustee's objection to the debtors' claim of exemptions. The objection and notice of hearing were served on an attorney who is not an attorney of record for the debtors in this case. If an attorney of record for the debtors appears at the hearing, as seems likely as the trustee's objection to confirmation, properly served, is also on this calendar, the court will hear the matter. If no appearance is made for the debtors, the court intends to continue the hearing to permit the trustee to effect proper service. The court will hear the matter.

31.	19-20248-D-13	VALERIE MARIN	CONTINUED MOTION TO CONFIRM
	HWW-3		PLAN
			5-4-19 [44]

32.	18-26550-D-13	ANNA REYNOSO	MOTION TO MODIFY PLAN
	PLG-3		5-30-19 [48]

33.	19-20350-D-13	LUIS CAVAZOS	MOTION FOR RELIEF FROM
	JHW-1		AUTOMATIC STAY
	SANTANDER CONSUMER USA INC.		6-26-19 [22]
	VS.		

Final ruling:

Creditor, Santander Consumer USA, Inc., is scheduled as a Class 4 creditor to be paid outside the plan, and an order confirming the plan has been entered in this case. The plan contains the language "Upon confirmation of the plan, the automatic stay of 11 U.S.C. § 362(a) and the co-debtor stay of 11 U.S.C. § 1301(a) are ... modified to allow the holder of a Class 4 secured claim to exercise its rights against its collateral and any nondebtor in the event of a default under applicable law or contract" If the debtor has defaulted under the plan, the stay has already been modified to allow this creditor to proceed with its rights against its collateral under the terms of the underlying loan and security documentation. Accordingly, the motion will be denied by minute order as unnecessary. No appearance is necessary.

34.	19-21950-D-13	NELSON SANCHEZ	MOTION TO DISMISS CASE
	LTF-1		6-18-19 [18]

35. 19-22551-D-13 RICARDO QUESADA
RDG-3

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
6-10-19 [25]

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 is supported by the record. Accordingly, the court will issue a minute order sustaining the objection to the debtor's claim of exemptions. No appearance is necessary.

36. 16-21452-D-13 MARIO ORTIZ
NFG-3

MOTION TO ENFORCE TERMS OF
CONFIRMED AMENDED PLAN
5-20-19 [117]

Final ruling:

The hearing on this motion is continued to August 27, 2019 at 11:00 a.m. No appearance is necessary on July 30, 2019.

37. 19-22062-D-13 CLINTON WILLIAMS
RDG-1

CONTINUED MOTION TO DISMISS
CASE
6-4-19 [23]

Final ruling:

The hearing on this motion is continued to August 27, 2019 at 11:00 a.m. No appearance is necessary on July 30, 2019.

38. 18-24867-D-13 CHRISTOPHER MURRAY
TLA-2

MOTION TO MODIFY PLAN
6-24-19 [35]

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.

39. 19-22368-D-13 WALTER/SHIRLEY SAUNDERS
TAG-2

MOTION TO APPROVE LOAN
MODIFICATION
7-1-19 [31]

Final ruling:

This is the debtors' motion for approval of a mortgage loan modification. The motion will be denied for the following reasons. First, the moving parties filed three separate documents each entitled Notice of Hearing on Motion to Approve Trial Loan Modification, at DNs 32, 33, and 34, with nothing in the titles to distinguish one from another. It appears at first glance that two of the notices are the same and the third appears similar to the motion. These are not, however, the sort of detailed analyses the court should have to make. Documents that are different from one another should have different titles such that they are readily distinguishable. Further, the proof of service references only a single Notice of Hearing on Motion to Approve Loan Modification, and it does not indicate which of the three documents bearing that title was the one served. Thus, the proof of service does not clearly evidence service of the particular notice of hearing, DN 32, that includes information on how to oppose the motion.

Second, the moving parties served some but not all creditors. It appears the moving parties served the mortgage lender with which the debtors are entering into the loan modification, along with creditors who have requested special notice. The court is aware that neither Fed. R. Bankr. P. 2002 nor 4001(c) requires that all creditors be noticed. However, Rule 4001(c)(1)(C) permits the court to direct that particular entities be served. In this instance, where the proposed loan modification would lower the debtors' mortgage payment by \$900 per month, the court finds notice must be given to all creditors. Here, it was not.

Third, the motion is not clear as to the nature of the relief sought. The first and last sentences state the debtors seek approval of a trial loan modification. However, the text of the motion states the "[d]ebtors have completed the trial loan modification payments and are now offered a permanent loan modification." Debtors' Motion, filed July 1, 2019, at 2:9-11. It is unclear whether the debtors are actually seeking approval of the permanent loan modification.

As a result of these service and notice defects, the motion will be denied by minute order. No appearance is necessary.

40. 19-20973-D-13 ALBERT/MARY HAYNES
RDG-1

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY RUSSELL
D GREER
4-8-19 [15]

41. 18-26974-D-13 FERNANDO CANTILLO MOTION TO MODIFY PLAN
JCK-3 6-17-19 [45]

Final ruling:

Motion withdrawn by moving party. Matter removed from calendar.

42. 19-22676-D-13 MARIA EDWARDS-RAMOS CONTINUED OBJECTION TO
RDG-1 CONFIRMATION OF PLAN BY RUSSELL
D. GREER
6-17-19 [13]

43. 19-23078-D-13 ALFONSO/TARA AYALA OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
6-28-19 [16]

Final ruling:

Objection withdrawn by moving party. Matter removed from calendar.

44. 11-47081-D-13 ANA LEMOS CONTINUED MOTION TO DISMISS
19-2032 TOG-1 ADVERSARY PROCEEDING
LEMONS V. GILLIS 3-22-19 [12]

45. 19-23081-D-13 FREDDIE FRAZIER
PGM-1

MOTION TO VALUE COLLATERAL OF
HARLEY DAVIDSON CREDIT CORP
7-2-19 [23]

Tentative ruling:

The court's records indicate that no timely opposition has been filed and, absent opposition, the relief requested in the motion is supported by the record. As such the court was preliminarily prepared to grant the motion. However, the debtor has filed a reply to an opposition. Thus, the court will hear the matter to determine whether opposition was, for example, served on the debtor's counsel but did not make it to the court's docket. If that is the case, the court will use the hearing as a status conference. The court will hear the matter.

46. 19-23081-D-13 FREDDIE FRAZIER
PGM-2

MOTION TO VALUE COLLATERAL OF
BANK OF STOCKTON
7-2-19 [28]

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.

47. 19-23081-D-13 FREDDIE FRAZIER
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
6-28-19 [20]

48. 16-26384-D-13 RAUL BOTELLO
JCK-5

MOTION TO MODIFY PLAN
5-30-19 [67]

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.

49. 18-27084-D-13 MELISSA BICE
JCK-1

MOTION TO MODIFY PLAN
6-17-19 [21]

50. 18-27184-D-13 MARTA HIGGINS
JCK-1

MOTION TO MODIFY PLAN
6-17-19 [27]

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.

51. 19-22286-D-13 JORGE/ELIZABETH VERDUZCO
NDB-1

MOTION TO CONFIRM PLAN
6-18-19 [15]

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.

52. 15-27287-D-13 GINA TOSCANO
PGM-8

MOTION TO MODIFY PLAN
5-31-19 [136]

53. 19-22987-D-13 MARVIN BODINE
RDG-2

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
6-28-19 [21]

Final ruling:

This is the trustee's objection to confirmation of the debtor's proposed chapter 13 plan. On July 24, 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.

54. 19-22891-D-13 VERNON/RHONDA SMITH
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
6-28-19 [33]

55. 19-22891-D-13 VERNON/RHONDA SMITH
RDG-2

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
6-28-19 [36]

56. 16-22393-D-13 BRANDON/MONIQUE JAMORA
GSJ-6

MOTION TO MODIFY PLAN
5-29-19 [90]

57.	19-22298-D-13 RDG-2	DORIAN/CATHERINE ANNE COLBERT	CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 6-10-19 [21]
58.	19-22299-D-13 RDG-1	RICHARD/STACIE FRANK	CONTINUED OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 6-10-19 [22]
59.	18-23114-D-13 GSJ-1	BERT/DIANA LYMAN	MOTION TO INCUR DEBT 7-8-19 [25]
60.	18-27726-D-13 JBR-2	EDWARD COLOMA AND KATHERINE SANCHEZ	MOTION TO SELL O.S.T. 7-15-19 [85]

61. 11-25250-D-13 CELESTE/JAMES BURNS
CLH-3

MOTION TO AVOID LIEN OF HSBC
BANK NEVADA, N.A.
7-12-19 [87]

Final ruling:

This is the debtors' motion to avoid a judicial lien held by HSBC Bank Nevada, N.A. (the "Bank"). The motion will be denied because the debtors have failed to submit admissible evidence supporting all the elements of an avoidable lien. The only evidence in support of the motion is the joint debtor's declaration and a copy of an unrecorded abstract of judgment in favor of the Bank. The joint debtor testifies that the Bank has a judicial lien on the debtors' real property, recorded July 13, 2009 in the San Joaquin County Recorder's Office. Her testimony is inadmissible as hearsay. As already indicated, the copy of the abstract of judgment bears no recording information.

In order to avoid a judicial lien, "the debtor must make a competent record on all elements of the lien avoidance statute, 11 U.S.C. § 522(f)" (In re Mohring, 142 B.R. 389, 391 (Bankr. E.D. Cal. 1992)), including that the creditor has a lien that is a judicial lien. Goswami v. MTC Distrib. (In re Goswami), 304 B.R. 386, 390-91 (9th Cir. BAP 2003), quoting Mohring, 142 B.R. at 392. "The operative principle here is that although bankruptcy confers substantial benefits on the honest but unfortunate debtor, including a discharge of debts, the ability to retain exempt property, and the ability to avoid certain liens that impair exemptions, there is a price." Mohring, 142 B.R. at 396. Obtaining a copy of a recorded abstract of judgment seems a small price to pay to avoid an otherwise valid and enforceable property interest.

For the reasons stated, the motion will be denied by minute order. No appearance is necessary.

62. 18-27556-D-13 RAVINDER KAUR
MC-1

MOTION TO EMPLOY KATZAKIAN REAL
ESTATE AS BROKER(S)
7-14-19 [24]

63. 19-23865-D-13 MICHAEL HENDERSON
CLH-1
PRITAM GREWAL VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-8-19 [16]

DEBTOR DISMISSED: 07/08/2019

64. 19-23994-D-13 FLORENTINO GUERZO
RDG-1

MOTION TO DISMISS CASE
7-16-19 [12]