

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Modesto, California

August 22, 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.	14-91502-D-13	NATIKA MABRY	MOTION TO MODIFY PLAN
	JCK-4		7-17-17 [46]

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.	14-90738-D-13	SALVADOR LOPEZ	AMENDED MOTION TO DISMISS CASE
	JB-1		AND/OR AMENDED MOTION TO
			CONVERT CASE TO CHAPTER 7
			7-21-17 [45]

Final ruling:

This case was dismissed by order dated July 25, 2017. Therefore, this matter is removed from calendar as moot.

3. 15-91240-D-13 RAMIRO CAMPOS
TOG-2

MOTION TO AVOID LIEN OF EDWARD
J. CARDOZA AND DOLORES M.
CARDOZA
7-11-17 [40]

Final ruling:

This is the debtor's motion to avoid an alleged judicial lien held by Edward J. Cardoza and Dolores M. Cardoza, dba Cardoza Enterprises (the "Cardozas"). The motion will be denied for the following reasons. First, the moving party failed to serve the Cardozas in strict compliance with Fed. R. Bankr. P. 7004(b)(1), as required by Fed. R. Bankr. P. 9014(b). The moving party served the Cardozas (1) through the attorneys who obtained their abstract of judgment; and (2) at two addresses addressed to Cardoza Enterprises, not to the Cardozas. The first method was insufficient because service on an individual must be by mail to the individual's dwelling house, usual place of abode, or place where the individual regularly conducts a business or profession, not through an attorney. The second method was insufficient because service was addressed to Cardoza Enterprises, whereas the judgment is held by the Cardozas.

Second, notice of the debtor's factual allegations was insufficient because the figures stated in the motion as to the value of the property and the other liens against it differ significantly from the figures stated in the debtor's supporting declaration.

Finally, the moving party has failed to submit evidence sufficient to establish the factual allegations of the motion and to demonstrate he is entitled to the relief requested, as required by LBR 9014-1(d)(6). Under California law, a judicial lien on real property is created by the recording of an abstract of judgment with the county recorder of the county in which the property is located. Cal. Code Civ. Proc. §§ 697.310(a), 697.340(a). The debtor has submitted a copy of an abstract of judgment recorded in San Joaquin County, whereas the property as to which the debtor seeks to avoid the alleged lien is in Stanislaus County. Thus, there is no evidence of a judicial lien held by the Cardozas, as created by an abstract of judgment recorded in the county in which the debtor's property is located, and no evidence there is a judicial lien that is subject to avoidance. Thus, the debtor has not established he is entitled to relief under § 522(f)(1)(A).

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

4. 17-90440-D-13 JOE BENTO
RDG-1

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
7-10-17 [32]

5. 17-90440-D-13 JOE BENTO
TOG-2

MOTION TO CONFIRM PLAN
7-7-17 [27]

Final ruling:

This is the debtor's motion to confirm a chapter 13 plan. The motion will be denied because the moving party failed to serve all creditors, as required by Fed. R. Bankr. P. 2002(b). Pursuant to an order extending time, the debtor filed his schedules roughly a month after he filed his petition. However, he did not at the same time (or since) file an amended master address list to add creditors on the schedules who were not on the list filed with the petition. As a result, when the motion was served utilizing the PACER matrix, the moving party failed to serve a secured creditor, his largest unsecured creditor (scheduled as being owed \$50,000), and the party listed on Schedule G as renting space at the debtor's dairy.

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

6. 13-90645-D-13 JAMES/MARCIA ALLARD
JAD-1

MOTION TO MODIFY PLAN
7-10-17 [42]

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. 17-90447-D-13 DONNELLE MC GEE
TGM-1

OBJECTION TO CONFIRMATION OF
PLAN BY TOYOTA MOTOR CREDIT
CORPORATION
7-25-17 [17]

8. 17-90451-D-13 MARK/SHANNON CIMOLI
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
7-21-17 [26]

9. 17-90554-D-13 JASPAL SINGH
TOG-2
CONTINUED MOTION TO IMPOSE
AUTOMATIC STAY AND/OR MOTION TO
EXTEND AUTOMATIC STAY
7-11-17 [11]
10. 16-90758-D-13 SUZAN CHILDERS
SSA-3
CONTINUED OBJECTION TO CLAIM OF
BECHAROFF CAPITAL CORP., CLAIM
NUMBER 6
5-5-17 [48]
11. 17-90460-D-13 SANTIAGO/GODELEVA
RDG-1 GUTIERREZ
OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
7-21-17 [18]
12. 17-90466-D-13 DAVID/DEANNA ROLLER
RDG-1
OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
7-21-17 [19]

13. 17-90466-D-13 DAVID/DEANNA ROLLER
SW-1
OBJECTION TO CONFIRMATION OF
PLAN BY ALLY BANK
7-25-17 [24]

14. 17-90472-D-13 CONSUELO ORTEGA
APN-1
OBJECTION TO CONFIRMATION OF
PLAN BY SANTANDER CONSUMER USA,
INC.
7-19-17 [22]

Final ruling:

The matter is resolved without oral argument. The trustee's objection (Item No. 15 on this calendar) has been sustained. As such, the court will overrule this objection to confirmation of Chapter 13 plan by minute order. No appearance is necessary.

15. 17-90472-D-13 CONSUELO ORTEGA
RDG-1
OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
7-21-17 [32]

Final ruling:

The matter is resolved without oral argument. The debtor has filed a statement of non-opposition to the trustee's objection to confirmation. As such, the court will sustain the objection to confirmation of Chapter 13 plan by minute order. No appearance is necessary.

16. 17-90575-D-13 JAMES DUNN, AND NORMA
DEF-1 DUNN
MOTION TO VALUE COLLATERAL OF
PNC BANK, N.A.
7-21-17 [15]

17. 17-90276-D-13 MARGARET/CHARLES GABLE MOTION TO CONFIRM PLAN
MLP-1 7-11-17 [31]
18. 17-90479-D-13 JOSEPHINE GOMEZ OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
7-21-17 [18]
19. 17-90479-D-13 JOSEPHINE GOMEZ OBJECTION TO CONFIRMATION OF
TGM-1 PLAN BY U.S. BANK, N.A.
7-20-17 [15]
20. 17-90385-D-13 TRACY MCNEAL COX AND CONTINUED OBJECTION TO
RCO-1 BYRON COX CONFIRMATION OF PLAN BY
LOANDEPOT.COM, LLC
6-26-17 [21]

21. 16-90388-D-13 CRISTINA ZAMUDIO
CAS-6

MOTION TO CONFIRM PLAN
6-16-17 [99]

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.

22. 16-90600-D-13 VALERIE AVITIA
BSH-3

CONTINUED MOTION TO MODIFY PLAN
6-26-17 [103]

23. 17-90145-D-13 NICOLE MORADKHANIAN
SSA-4

MOTION FOR COMPENSATION FOR
STEVEN S. ALTMAN, CREDITORS
ATTORNEY(S)
7-28-17 [98]

24. 11-92649-D-13 HUMBERTO/MARTHA MORENO
16-9014
MORENO ET AL V. PNC BANK, NA
ET AL

MOTION TO DISMISS ADVERSARY
PROCEEDING
8-4-17 [62]

25. 17-90571-D-13 MARCELLA WITT
JAD-1

MOTION TO VALUE COLLATERAL OF
WELLS FARGO BANK, N.A.
8-7-17 [11]

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.