

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Modesto, California

October 3, 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.	17-90209-D-13	LUCIANO SILVEIRA	MOTION TO CONFIRM PLAN
	SSA-3		8-15-17 [69]

Final ruling:

This case was dismissed on September 19, 2017. As a result the motion will be denied by minute order as moot. No appearance is necessary.

2.	14-91620-D-13	SHANE MILLER	MOTION TO MODIFY PLAN
	MJD-1		8-17-17 [52]

3. 17-90438-D-13 KYLE FREITAS
BSH-2

MOTION TO CONFIRM PLAN
8-21-17 [45]

Final ruling:

This is the debtor's motion to confirm an amended 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). The moving party failed to serve: (1) four of the five creditors who have filed claims in this case at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g), or at all; (2) the party requesting special notice at DN 15 at its designated address, as required by the same rule; and (3) many of the creditors listed on his schedules. In fact, the mailing matrix attached to the proof of service appears to be from a different case.¹

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

1 This analysis assumes that the moving party's original proof of service, DN 49, was not superseded by the amended and/or supplemental proofs of service, DNs 50 and 53. If the latter proofs of service were intended to supersede the original, there is no evidence of service on any creditors except two of the three creditors that had, by the time of service, filed requests for special notice.

4. 17-90340-D-13 LEO/NIA BARRAGAN
TOG-2

MOTION TO CONFIRM PLAN
8-10-17 [34]

Final ruling:

The relief requested in the motion is supported by the record and the only opposition to the motion has been withdrawn. 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.

5. 17-90447-D-13 DONNELLE MC GEE
SSA-1

MOTION TO CONFIRM PLAN
8-18-17 [21]

Tentative ruling:

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied because the moving party failed to serve Tapestry Town Homes - RJK Investments, listed on the debtor's Schedule G as a party to a one-year lease with the debtor which the debtor intends to renew. The lease is provided for in Section 3 of the plan. 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. In addition, the debtor has 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 G.

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

6. 17-90554-D-13 JASPAL SINGH MOTION TO VALUE COLLATERAL OF
TOG-3 BMO HARRIS BANK, N.A.
8-15-17 [32]

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.

7. 17-90459-D-13 JOSE/ENRIQUETA VALDOVINOS MOTION TO CONFIRM PLAN
TOG-2 8-14-17 [30]

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. 12-92866-D-13 JOHN/JULIE STEWART MOTION TO MODIFY PLAN
JAD-2 8-17-17 [53]

9. 17-90575-D-13 JAMES DUNN, AND NORMA OBJECTION TO CONFIRMATION OF
AP-1 DUNN PLAN BY U.S. BANK, N.A.
8-28-17 [41]

10. 13-91898-D-13 ROY/DORENE CORSON
BSH-8

MOTION TO MODIFY PLAN
8-14-17 [95]

Final ruling:

This is the debtors' motion to confirm a modified 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). The moving parties failed to serve: (1) all except one of the creditors who have filed claims in this case at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g), or at all; (2) the party requesting special notice in this case at its designated address, as required by the same rule; (3) many of the creditors listed on their schedules; and (4) either of the parties listed on Schedule G as parties to unexpired leases. In fact, the mailing matrix attached to the proof of service appears to be from a different case. The leases are provided for in Section 3 of the plan. 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 debtors. In addition, the debtors have 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 G.

In addition, the notice of hearing gives the hearing date as October 3, 2017 in the caption but "Wednesday, October 04, 2017" in the text.

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

11. 17-90499-D-13 LANCE/CARLA AZEVEDO
SSA-1

MOTION TO CONFIRM PLAN
8-21-17 [18]

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. 17-90571-D-13 MARCELLA WITT
RDG-2

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
9-11-17 [26]

Final ruling:

This case was dismissed on September 19, 2017. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

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| 13. | 17-90575-D-13
RDG-3 | JAMES DUNN, AND NORMA
DUNN | OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
9-11-17 [44] |
| 14. | 17-90575-D-13
RSA-1 | JAMES DUNN, AND NORMA
DUNN | OBJECTION TO CONFIRMATION OF
PLAN BY PNC BANK, N.A.
9-13-17 [47] |
| 15. | 17-90578-D-13
RDG-1 | ALEJANDRO/SONIA LOYA | OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
9-11-17 [18] |
| 16. | 17-90585-D-13
RDG-1 | JOHN/FELICE CIZMICH | OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
9-11-17 [18] |