

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

October 7, 2014 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.	14-22203-D-13	PAUL/ANNE NUNEZ	MOTION TO CONFIRM PLAN
	PLG-3		8-15-14 [52]

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.

2. 13-22206-D-13 JANINE SUTTI CONTINUED MOTION TO MODIFY PLAN
WW-2 5-6-14 [43]

Final ruling:

This motion was granted by order entered September 23, 2014. As a result the matter is removed from calendar. No appearance is necessary.

3. 10-35209-D-13 PATRICK/KAREN PETTIPIECE MOTION TO MODIFY PLAN
CJY-6 9-2-14 [102]

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.

4. 14-27314-D-13 JUAN HERNANDEZ AND MARIA OBJECTION TO CONFIRMATION OF
RDG-1 ROMAN PLAN BY TRUSTEE RUSSELL D.
GREER
9-5-14 [16]

5. 14-27016-D-13 GERARDO MARTINEZ OBJECTION TO DEBTOR'S CLAIM OF
RDG-3 EXEMPTIONS
8-22-14 [31]

Final ruling:

This case was dismissed on August 27, 2014. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

6. 14-27224-D-13 KAREN CONROE
RDG-1
OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
9-5-14 [14]
7. 14-27325-D-13 RYAN/VICTORIA KAMERZELL
RDG-1
OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE RUSSELL D.
GREER
9-5-14 [15]
8. 14-28526-D-13 DANNY/LUISA ACAIN
JCK-1
MOTION TO VALUE COLLATERAL OF
DYCK O'NEAL, INC.
8-26-14 [8]
- Tentative ruling:**
- This is the debtors' motion to value collateral of Dyck O'Neal, Inc. The motion was noticed under LBR 9014-1(f)(1), and no opposition has been filed. However, the court is not prepared to grant the motion at this time because the proof of service states that service was made on August 14, 2014, whereas the moving papers were not signed until August 25, 2014. Thus, the proof of service is not accurate. If a corrected proof of service has been filed by the time of the hearing, the motion will be granted.
- The court will hear the matter.
9. 14-27334-D-13 STEVEN/CYNTHIA PETLANSKY
RDG-1
OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
9-5-14 [17]

10. 14-24140-D-13 JESUS/AMY SALES OBJECTION TO CLAIM OF BAYSAVERS
SJS-2 VEHICLE, INC., CLAIM NUMBER 1-1
8-11-14 [31]

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 sustain the debtors' objection to claim as to priority status only. The claim will be allowed as a secured claim. Moving party is to submit an appropriate order. No appearance is necessary.

11. 14-24140-D-13 JESUS/AMY SALES MOTION TO CONFIRM PLAN
SJS-3 8-26-14 [41]

Final ruling:

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied because the creditor list attached to the proof of service is for a different case; thus, the debtors failed to serve the creditors in this case, as required by Fed. R. Bankr. P. 2002(b).

As a result of this service defect, the motion will be denied, and the court need not reach the issues raised by the trustee at this time. The motion will be denied by minute order. No appearance is necessary.

12. 14-23842-D-13 ANGELA WARREN-BASS CONTINUED MOTION TO CONFIRM
JCK-3 PLAN
6-20-14 [42]

13. 14-27445-D-13 PETER/LORI KOULOURIS OBJECTION TO CONFIRMATION OF
RDG-2 PLAN BY RUSSELL D. GREER
9-5-14 [24]

14. 14-22348-D-13 LISA PINA
ALF-4

MOTION TO CONFIRM PLAN
8-21-14 [55]

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 several creditors filing claims in this case at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g).

As a result of this service defect, the motion will be denied, and the court need not reach the issue raised by the trustee at this time. The motion will be denied by minute order. No appearance is necessary.

15. 12-39153-D-13 CHANTAE JACKSON
JCK-4

CONTINUED MOTION TO MODIFY PLAN
7-29-14 [56]

Final ruling:

The relief requested in the motion is supported by the record, the trustee has withdrawn his opposition to confirmation based on the debtor's reply, and no other 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.

16. 14-27455-D-13 RYAN/LYNDA COHOON
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
9-5-14 [16]

17. 14-27364-D-13 PONCIANO PALARUAN
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
9-5-14 [24]

Final ruling:

This case was dismissed on September 17, 2014. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

18. 13-24666-D-13 ROBERT PINTOR
JM-3

MOTION TO MODIFY PLAN
8-18-14 [61]

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 the IRS, which holds a large priority claim in this case, at its address on the Roster of Governmental Agencies, as required by LBR 2002-1(c).

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

19. 14-27267-D-13 SARAD/USHA CHAND
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
9-5-14 [17]

20. 14-25073-D-13 JOSE HERNANDEZ
PLL-3

MOTION TO CONFIRM PLAN
8-28-14 [49]

Final ruling:

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons. First, the motion is entitled a motion to confirm a third modified plan; however, the motion states that the second modified plan satisfies the applicable requirements, and in the prayer, the debtor requests that his second modified plan be confirmed. The title of the notice of hearing complicates the matter further in that it refers to the debtor's first amended plan. Second, although the notice of hearing contains admonitions about the failure to file timely written opposition, it does not contain the specific admonition required by LBR 9014-1(d)(3). Third, the proof of service is attached to the motion, rather than being filed separately, as required by LBR 9014-1(e)(3), and does not contain a caption or the other information required by the Revised Guidelines for the Preparation of Documents, EDC 2-901 (Rev. 1/17/14). Fourth, the proof of service fails to state the date of service, and inexplicably refers to the first-class postage being "attached hereto." Fifth, the moving party failed to serve the creditor filing Claim Nos. 1 and 2 at the address on its proofs of claim, as required by Fed. R. Bankr. P. 2002(g). (For future reference, counsel should note that another creditor has filed a proof of claim since this motion was filed.) The moving party also failed to serve the creditor requesting special notice at DN 22 at its designated addresses, as required by Fed. R. Bankr. P. 2002(g). Finally, assuming the service date was the date the proof of service was filed, the moving party gave only 40 days' notice of the hearing rather than 42 days, as required by LBR 3015(d)(1).

As a result of these service and notice defects, the motion will be denied, and the court need not reach the issues raised by the trustee at this time. The motion will be denied by minute order. No appearance is necessary.

21. 14-25673-D-13 STEVEN TUCKER MOTION FOR RELIEF FROM
KO-2 AUTOMATIC STAY
PROVIDENT SAVINGS BANK VS. 9-5-14 [69]

Final ruling:

This matter is resolved without oral argument. This is Provident Savings Bank'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 property is not necessary for an effective reorganization. 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.

22. 14-27073-D-13 VIRGINIA TUDOR OBJECTION TO DEBTOR'S CLAIM OF
RDG-3 EXEMPTIONS
8-22-14 [28]

Final ruling:

The matter is resolved without oral argument. The court's record indicates that no timely opposition/response has been filed. The objection is supported by the record. The court will sustain the trustee's objection to the debtor's claim of exemptions. Moving party is to submit an appropriate order. No appearance is necessary.

23. 09-38077-D-13 JACK/CHRISTINA GONZALES MOTION TO MODIFY PLAN
LRR-2 8-20-14 [67]

24. 12-25179-D-13 LARRY/CARRIE STAMPER MOTION TO MODIFY PLAN
JCK-4 8-22-14 [71]

25. 10-35186-D-13 CONNIE CARRIER
DN-8

MOTION FOR HARDSHIP DISCHARGE
9-8-14 [108]

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 for hardship discharge is supported by the record. As such the court will grant the motion for hardship discharge. Moving party is to submit an appropriate order. No appearance is necessary.

26. 13-35292-D-13 JULIO/TAMMI ADAME
DN-2

MOTION TO MODIFY PLAN
8-27-14 [41]

27. 12-27295-D-13 GERARDO/REBECCA HERNANDEZ
JCK-3

MOTION TO MODIFY PLAN
8-21-14 [32]

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.

28. 14-26395-D-13 JOSE/ARELLY TALAVERA
JCK-1

MOTION TO AVOID LIEN OF COUNTY
OF SAN JOAQUIN, REVENUE AND
RECOVERY
8-28-14 [24]

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. The court finds the judicial lien described in the motion impairs an exemption to which the debtors are entitled. As a result, the court will grant the debtors' motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

29. 12-29798-D-13 ERIC/EMMARI CALAYAN
TBK-8

OBJECTION TO CLAIM OF JPMORGAN
CHASE BANK, N.A., CLAIM NUMBER
14
8-15-14 [102]

Tentative ruling:

This is the debtors' objection to the claim of JPMorgan Chase Bank (the "Bank"), Claim No. 14. On September 26, 2014, the Bank filed an amended proof of claim, which appears on the court's claims register as Claim No. 14-2. The amended proof of claim specifically states that it amends Claim No. 14. As a result of the filing of the amended proof of claim, it appears the debtors' objection to claim is moot. In fact, an attachment to the amended proof of claim indicates the Bank amended its claim in response to the debtors' objection to claim. Accordingly, the court intends to overrule the objection as moot.

The court will hear the matter.

30. 11-36742-D-13 MICHAEL/MARYANN FREDRIKS
JM-1

CONTINUED MOTION TO VALUE
COLLATERAL OF HSBC MORTGAGE
SERVICES, INC.
8-6-14 [32]

Final ruling:

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of HSBC Mortgage Services, Inc. at \$0.00, pursuant to § 506(a) of the Bankruptcy Code. The creditor's claim is secured by a junior deed of trust on the debtors' residence and the amount owed on the senior encumbrance exceeds the value of the real property. 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 set the amount of HSBC Mortgage Services, Inc.'s secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

31. 11-45742-D-13 GUSTAVO/ESTELLA CORTEZ
CJO-1

MOTION FOR CONSENT TO ENTER
INTO LOAN MODIFICATION
AGREEMENT
9-12-14 [42]

32. 14-21773-D-13 STEVEN/ALICE RABARA
APN-1
EXETER FINANCE CORP. VS.

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY AND/OR
MOTION FOR RELIEF FROM
CO-DEBTOR STAY
8-18-14 [23]

33. 09-35581-D-13 OSWALDO/ANGELA CRUZ
CJO-1

MOTION FOR CONSENT TO ENTER
INTO LOAN MODIFICATION
AGREEMENT
9-17-14 [83]

34. 14-29295-D-13 JEREMY HECHT
MRL-1

MOTION TO IMPOSE AUTOMATIC STAY
9-22-14 [8]