

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

October 20, 2015 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.	15-26002-D-13 RDG-1	NATALIE LOPEZ	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 9-22-15 [28]
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2.	15-26602-D-13 EJS-2	RICHARD EVANS AND BONNIE LEBERMAN	MOTION TO VALUE COLLATERAL OF PERITUS PORTFOLIO FINANCIAL SERVICES II, LLC 8-27-15 [14]
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Final ruling:

This is the debtors' motion to value collateral of Peritus Portfolio Financial Services II, LLC ("Peritus"). The motion will be denied because the moving parties

failed to serve Peritus in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving parties served Peritus (1) by certified mail to the attention of an officer, managing or general agent; (2) by certified mail through its agent for service of process, as registered with the Delaware Secretary of State; and (3) by first-class mail to the attention of its Bankruptcy Department. The first and second methods were insufficient because service on an LLC such as Peritus that is not an FDIC-insured institution must be by first-class mail, not certified mail.

This distinction is important. Whereas service on an FDIC-insured institution must be by certified mail (Fed. R. Bankr. P. 7004(h)), service on an LLC that is not an FDIC-insured institution must be by first-class mail (preamble to Fed. R. Bankr. P. 7004(b)). If service by certified mail on an LLC that is not an FDIC-insured institution were appropriate, the distinction between the two rules would be superfluous.

The third method was insufficient because service on a corporation, partnership, or other unincorporated association must be to the attention of an officer, managing or general agent, or agent for service of process, not a Bankruptcy Department.

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

3.	15-25311-D-13	TAMAR BELVINE	MOTION TO CONFIRM PLAN
	LRR-2		8-21-15 [25]

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.	15-25013-D-13	KENNETH/ESTHER BOLING	MOTION TO CONFIRM PLAN
	JCK-2		8-28-15 [25]

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.

5. 15-24119-D-13 BARBARA/KASEY CORDOZA MOTION TO VALUE COLLATERAL OF
JM-2 SUN TRUST MORTGAGE
8-26-15 [33]

Final ruling:

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Sun Trust Mortgage 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 Sun Trust Mortgage's secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

6. 15-25324-D-13 KULWANT/KARMDIT PAWAR MOTION FOR RELIEF FROM
CET-1 AUTOMATIC STAY AND/OR MOTION
CENTENNIAL LEASING, LLC VS. FOR ADEQUATE PROTECTION
9-22-15 [46]

7. 15-20427-D-13 OSCAR WILLS MOTION TO CONFIRM PLAN
HLG-6 8-24-15 [94]

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.

8. 14-32330-D-13 MARY-ANNE MALOY OBJECTION TO CLAIM OF TD BANK
JCK-2 USA, N.A., CLAIM NUMBER 5
9-3-15 [20]

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 debtor's objection to claim. No appearance is necessary.

9. 15-21534-D-13 ROXANA NAJERA
PGM-1

MOTION TO CONFIRM PLAN
9-8-15 [54]

10. 15-24334-D-13 RICHARD GOVIA
MLA-3

MOTION TO CONFIRM PLAN
9-8-15 [58]

Final ruling:

This is the debtor's motion to confirm an amended chapter 13 plan. The motion will be denied for the following reasons: (1) the moving party failed to serve Condominium Travel Club, added to his Schedule F by amendment filed September 15, 2015; and (2) the proof of service states that the "Chapter 13 Plan" was served whereas the plan that is the subject of this motion is a First Amended Chapter 13 Plan.

As a result of these service 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.

11. 15-25838-D-13 SHAWN/KRISTEN CARTER
SW-1

OBJECTION TO CONFIRMATION OF
PLAN BY ALLY FINANCIAL
8-12-15 [8]

Final ruling:

Objection withdrawn by moving party. Matter removed from calendar.

12. 15-25443-D-13 SALVADOR MONTES LEDEZMA
RNE-2 AND ROSA MONTES

MOTION TO CONFIRM PLAN
9-8-15 [61]

Final ruling:

This is the debtors' motion to confirm an amended chapter 13 plan. The motion will be denied because (1) the moving parties failed to serve the creditors filing Claim Nos. 4 and 5 at the addresses on their proofs of claim, as required by Fed. R. Bankr. P. 2002(g); (2) the moving papers include a docket control number that has been used for two prior motions in this case, which is not in compliance with LBR 9014-1(c)(3); and (3) the motion is a motion to confirm a second amended plan whereas the plan filed as an exhibit to the motion is entitled simply Chapter 13 Plan and the plan filed the next day (which appears to be otherwise identical to the plan filed as an exhibit) is entitled simply Chapter 13 Plan - Amended. The moving parties previously sought approval of a plan entitled Chapter 13 Plan - Amended - a plan that was different from the ones filed with and the day after this motion; confirmation was denied.

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

13. 15-25443-D-13 SALVADOR MONTES LEDEZMA
RNE-3 AND ROSA MONTES

MOTION TO VALUE COLLATERAL OF
BANK OF AMERICA, N.A.
9-4-15 [48]

Final ruling:

This is the debtors' motion to value collateral of Bank of America securing a loan serviced by Real Time Resolutions, Inc. (the "Bank"). The motion will be denied because the moving parties failed to serve the Bank in strict compliance with Fed. R. Bankr. P. 7004(h), as required by Fed. R. Bankr. P. 9014(b). The moving parties served the Bank (1) by certified mail to the attention of its agent for service of process, as registered with the California Secretary of State; (2) by first-class mail to the attention of its president; and (3) by first-class mail to a post office box address with no attention line. The first method was insufficient because service on an FDIC-insured institution must be to the attention of an officer and only an officer, not to the attention of an agent for service of process.

This distinction is important. For service on a corporation, partnership, or other unincorporated association that is not an FDIC-insured institution, the applicable rule requires service to the attention of an officer, managing or general agent, or agent for service of process (Fed. R. Bankr. P. 7004(b)(3)), whereas service on an FDIC-insured institution must be to the attention of an officer. Fed. R. Bankr. P. 7004(h). If service on an FDIC-insured institution to the attention of an agent for service of process were appropriate, the distinction in the manner of service, as between the two rules, would be superfluous. The first method was insufficient for the further reason that the rule requires service on an officer of the Bank, whereas it is unlikely an officer of the Bank is to be found at the location of the Bank's agent for service of process.

The second method was insufficient because service on an FDIC-insured institution must be by certified mail, not first-class mail. Again, the distinction is important. Service on a corporation, partnership, or other unincorporated association that is not an FDIC-insured institution must be by first-class mail (preamble to Fed. R. Bankr. P. 7004(b)), whereas service on an FDIC-insured institution must be by certified mail. Fed. R. Bankr. P. 7004(h). If service on an FDIC-insured institution by first-class mail were appropriate, the distinction in the manner of service, as between the two rules, would be superfluous. The third method was insufficient because service must be by certified mail and because service must be to the attention of an officer, whereas here there was no attention line. The moving parties also served Real Time Resolutions; however, the motion indicates clearly the creditor is the Bank and Real Time Resolutions is only the servicer.

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

14. 15-26343-D-13 JANET MORRISON
EJS-1

MOTION TO VALUE COLLATERAL OF
PRESTIGE FINANCIAL SERVICES
8-25-15 [8]

Final ruling:

This is the debtor's motion to value collateral of Prestige Financial Services ("Prestige"). The motion will be denied because the moving party failed to serve Prestige in strict compliance with Fed. R. Bankr. P. 7004(b)(3), as required by Fed. R. Bankr. P. 9014(b). The moving party served Prestige (1) by certified mail through its agent for service of process, as registered with the California Secretary of State; (2) by certified mail to the attention of an officer, managing or general agent; and (3) by first-class mail to the attention of its Bankruptcy Department. The first and second methods were insufficient because service on a corporation such as Prestige that is not an FDIC-insured institution must be by first-class mail, not certified mail.

This distinction is important. Whereas service on an FDIC-insured institution must be by certified mail (Fed. R. Bankr. P. 7004(h)), service on an LLC that is not an FDIC-insured institution must be by first-class mail (preamble to Fed. R. Bankr. P. 7004(b)). If service by certified mail on an LLC that is not an FDIC-insured institution were appropriate, the distinction between the two rules would be superfluous.

The third method was insufficient because service on a corporation must be to the attention of an officer, managing or general agent, or agent for service of process, not a Bankruptcy Department.

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

15. 15-26163-D-13 JOHN/ANNETTE PAYAN
RDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
9-21-15 [17]

16. 12-26173-D-13 FRANK/LILLIE LOPEZ MOTION TO MODIFY PLAN
JAD-2 8-14-15 [41]
17. 15-21576-D-13 JEREMY/KAREE HARRISON CONTINUED MOTION TO CONFIRM
SJS-3 PLAN
8-10-15 [68]
18. 15-26176-D-13 CARLTON RANDLE AND OBJECTION TO CONFIRMATION OF
RDG-1 CATHERINE DENOS PLAN BY RUSSELL D. GREER
9-21-15 [17]
19. 15-25977-D-13 BUNRIEN CHUOP MOTION TO AVOID LIEN OF FIA
MJH-2 CARD SERVICES, N.A.
8-31-15 [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 debtor is entitled. As a result, the court will grant the debtor's motion to avoid the lien. Moving party is to submit an appropriate order. No appearance is necessary.

20. 15-25978-D-13 PARAM SAINI AND SATNAM OBJECTION TO CONFIRMATION OF
RDG-1 KAUR PLAN BY RUSSELL D. GREER
9-21-15 [15]

21. 15-26579-D-13 JAMEESE GUESS OBJECTION TO CONFIRMATION OF
VVF-1 PLAN BY FLAGSHIP CREDIT
ACCEPTANCE, LLC
9-17-15 [33]

Final ruling:

This is the objection of Flagship Credit Acceptance, LLC, to confirmation of the debtor's proposed chapter 13 plan. The objection was noticed for this date, whereas the Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, & Deadlines (the "Notice") states that objections to confirmation shall be set for hearing on November 3, 2015. Pursuant to LBR 3015-1(c)(4), the creditor was required to set the objection for the date designated in the Notice.

The hearing will be continued to November 3, 2015 at 10:00 a.m. by minute order. No appearance is necessary on October 20, 2015.

22. 14-28090-D-13 JOSEPH CLARK MOTION TO MODIFY PLAN
PGM-4 9-3-15 [92]

23. 12-27295-D-13 GERARDO/REBECCA HERNANDEZ MOTION TO MODIFY PLAN
JCK-5 9-3-15 [54]

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.

24.	14-21197-D-13 RJ-3	SILVIA QUIROGA	MOTION TO MODIFY PLAN 9-8-15 [61]
25.	15-25997-D-13 RDG-1	AL GREEN	OBJECTION TO CONFIRMATION OF PLAN BY RUSSELL D. GREER 9-21-15 [15]
26.	15-24499-D-13 KK-1	SHANNON ROCK	OBJECTION TO CONFIRMATION OF PLAN BY DITECH FINANCIAL LLC 9-21-15 [32]
27.	10-40615-D-13 JDP-1	ROBERT/KRISTIN SHORT	MOTION TO VALUE COLLATERAL OF WELLS FARGO BANK, N.A. 10-2-15 [51]

28. 15-21854-D-13 CEFERINO/XIOMARA GONZALES CONTINUED MOTION TO SUBSTITUTE
MSM-3 COLLATERAL
9-21-15 [58]

Final ruling:

This motion has been resolved by stipulated order. Matter removed from calendar.

29. 11-25162-D-13 RONNIE/GLORIA MOISES MOTION FOR COMPENSATION FOR
MRL-2 MIKALAH RAYMOND LIVIAKIS,
DEBTORS ATTORNEY(S)
10-6-15 [90]

30. 15-90871-D-13 WILSON/AVELAIN SARHAD CONTINUED MOTION TO EXTEND
DCJ-2 AUTOMATIC STAY
9-22-15 [14]