

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

November 3, 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.	14-26310-D-13	TRISHA JANEWAY	MOTION TO MODIFY PLAN
	EWG-2		9-28-15 [71]

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. 14-26410-D-13 ENEDINA CHAVEZ-WILLIAMS MOTION TO MODIFY PLAN
CLH-2 AND KENNETH WILLIAMS 9-29-15 [32]

3. 15-26511-D-13 ANGIELIQUE CAMPBELL OBJECTION TO CONFIRMATION OF
MDE-1 PLAN BY WELLS FARGO BANK, N.A.
9-14-15 [19]

Final ruling:

This case was dismissed on September 23, 2015. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

4. 14-26718-D-13 HELEODORO ALVAREZ MOTION FOR COMPENSATION FOR
SSA-3 STEVEN S. ALTMAN, TRUSTEE'S
ATTORNEY
10-7-15 [59]

5. 14-26718-D-13 HELEODORO ALVAREZ MOTION FOR COMPENSATION FOR BOB
SSA-4 BRAZEAL, BROKER
10-7-15 [69]

6. 14-26718-D-13 HELEODORO ALVAREZ
SSA-5
MOTION FOR COMPENSATION FOR
IRMA EDMONDS, CHAPTER 7 TRUSTEE
10-7-15 [65]
7. 15-26318-D-13 JEFFREY/AMY BROWNING
RDG-2
OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
10-2-15 [21]
8. 15-21621-D-13 JESUS/TERESA LOPEZ
DCJ-3
MOTION TO CONFIRM PLAN
9-17-15 [48]
9. 15-26625-D-13 ANTHONY MOORE
EGS-1
OBJECTION TO CONFIRMATION OF
PLAN BY GUILD MORTGAGE COMPANY
10-7-15 [25]

Final ruling:

This case was dismissed on October 22, 2015. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

10. 15-23828-D-13 SHERYL HUDSON
WW-3

MOTION TO CONFIRM PLAN
9-22-15 [72]

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). Specifically, the moving party failed to serve Adelaide Hudson, listed on the debtor's Schedule H as a co-debtor on both of her mortgages. Minimal research into the case law concerning § 101(5) and (10) of the Code discloses an extremely broad interpretation of "creditor," certainly one including co-debtors on obligations of the debtor. Further, the debtor was required by Fed. R. Bankr. P. 1007(a)(1) to list Adelaide Hudson on her master address list, which she failed to do, with the result that Adelaide Hudson has not received formal notice, or perhaps any notice, of this case in the five months it has been pending.

Adelaide Hudson is the debtor's 89-year old mother and a co-owner of the debtor's residence, with the debtor, and the plan proposes the debtor will sell the residence if she is unable to refinance the mortgages or obtain loan modifications. Adelaide Hudson resides with the debtor; her retirement and social security income funds \$3,421 of the household's total income of \$5,202. The debtor states in a declaration in response to First Nationwide Mortgage's opposition to this motion that her mother intends to continue to live in the property until she passes. She adds that the property has been remodeled to include improvements to make it accessible to her mother. In these circumstances especially, there is no excuse for omitting Adelaide Hudson from the master address list or from service of this motion. It may well be that the debtor would testify her mother is aware of the bankruptcy case and the proposed plan; that is not, however, an exception to Rules 1007(a)(1) and 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 and First Nationwide Mortgage at this time. The motion will be denied by minute order. No appearance is necessary.

11. 14-29931-D-13 LISA ROCHA
WW-5

MOTION TO CONFIRM PLAN
9-22-15 [118]

Final ruling:

This is the debtor's motion to confirm a third amended chapter 13 plan. The motion was filed September 22, 2015. Later the same day, the debtor filed a fourth amended plan. As a result of the filing of the fourth amended plan, this motion is moot. The motion will be denied as moot by minute order. No appearance is necessary.

12. 14-29931-D-13 LISA ROCHA
WW-5

MOTION TO CONFIRM PLAN
9-22-15 [122]

13. 11-45142-D-13 ELIZABETH LAJOS
AT-1
TRADAN SPRINGS HOMEOWNERS
ASSOC. VS.

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
6-30-15 [154]

14. 11-45142-D-13 ELIZABETH LAJOS
JBR-11

MOTION TO MODIFY PLAN
9-12-15 [175]

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.

15. 14-23842-D-13 ANGELA WARREN-BASS
JCK-6

MOTION TO MODIFY PLAN
9-18-15 [111]

16. 15-25943-D-13 MICHAEL/PHYLLIS MIRANDA
PK-2

MOTION TO VALUE COLLATERAL OF
WELLS FARGO BANK, N.A.
9-22-15 [21]

Final ruling:

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Wells Fargo Bank, N.A. 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 Wells Fargo Bank, N.A.'s secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

17. 15-25943-D-13 MICHAEL/PHYLLIS MIRANDA MOTION TO CONFIRM PLAN
PK-3 9-22-15 [26]

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.

18. 15-27146-D-13 DENNIS THURSTON MOTION TO VALUE COLLATERAL OF
JCK-1 TOYOTA MOTOR CREDIT CORPORATION
9-24-15 [8]

Tentative ruling:

This is the debtor's motion to value the collateral of Toyota Motor Credit ("Toyota"), a 2013 Toyota Tundra, at \$22,000. Toyota has filed opposition. For the following reasons, the motion will be denied.

The Retail Installment Sale Contract attached to Toyota's proof of claim and filed as an exhibit to its opposition demonstrates that the debtor's debt to Toyota was incurred on June 28, 2013, which was 805 days prior to the date the debtor's petition was filed, September 11, 2015. The contract also demonstrates the debt was secured by a purchase money security interest and that the vehicle was acquired for the personal use of the debtor. As a result, the debtor may not value the collateral pursuant to § 506(a) of the Bankruptcy Code. Hanging paragraph following §1325(a) (9).

For this reason, the motion will be denied. The court will hear the matter.

19. 15-24449-D-13 GUADALUPE/JAIME HERNANDEZ MOTION TO CONFIRM PLAN
RS-4 9-22-15 [70]

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.

20. 12-22966-D-13 DINA HARRIS-WILLIAMS MOTION TO MODIFY PLAN
JCK-6 9-18-15 [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 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.

21. 15-27372-D-13 ROBERTO RECONOSE MOTION FOR RELIEF FROM
BHT-1 AUTOMATIC STAY AND/OR MOTION
CHRISTIANA TRUST VS. FOR RELIEF FROM CO-DEBTOR STAY
9-30-15 [14]

Final ruling:

This case was dismissed on October 21, 2015. As a result the motion will be denied by minute order as moot. No appearance is necessary.

22. 15-27275-D-13 GERARDO MARTINEZ MOTION FOR RELIEF FROM
JM-1 AUTOMATIC STAY
STEVE GIKAS VS. 10-4-15 [18]

Final ruling:

This case was dismissed on October 21, 2015. As a result the motion will be denied by minute order as moot. No appearance is necessary.

23. 15-27277-D-13 SADIE CROSBY MOTION TO VALUE COLLATERAL OF
MJH-1 SPECIALIZED LOAN SERVICING, LLC
9-25-15 [14]

Final ruling:

The matter is resolved without oral argument. This is the debtor's motion to value the secured claim of Specialized Loan Servicing, LLC 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 debtor's 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 Specialized Loan Servicing, LLC's secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

24. 15-26496-D-13 BELINDA SMITH
WJS-1

OBJECTION TO CONFIRMATION OF
PLAN BY PNC BANK, N.A.
10-2-15 [33]

Final ruling:

This case was dismissed on October 22, 2015. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

25. 15-26496-D-13 BELINDA SMITH
WJS-2
PNC BANK, N.A. VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-2-15 [26]

26. 15-26417-D-13 CHRISTOPHER/SONJA IORIO
KDG-1

OBJECTION TO CONFIRMATION OF
PLAN BY SAN JOAQUIN POWER
EMPLOYEES CREDIT UNION
10-14-15 [22]

27. 15-26417-D-13 CHRISTOPHER/SONJA IORIO
SAS-1

OBJECTION TO CONFIRMATION OF
PLAN BY PAN AMERICAN BANK
10-14-15 [19]

28. 15-26625-D-13 ANTHONY MOORE
RDG-2

OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE RUSSELL D.
GREER
10-9-15 [29]

Final ruling:

This case was dismissed on October 22, 2015. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

29. 15-23828-D-13 SHERYL HUDSON
WW-3

OBJECTION TO NOTICE OF MORTGAGE
PAYMENT CHANGE
10-20-15 [91]

30. 15-23828-D-13 SHERYL HUDSON
BHT-2

OBJECTION TO CONFIRMATION OF
PLAN BY FIRST NATIONWIDE
MORTGAGE CORPORATION
10-12-15 [81]

Final ruling:

This is an objection to confirmation filed by First Nationwide Mortgage. First Nationwide also filed a notice of hearing on the objection and included a new docket control number, BHT-2, on the objection, notice of hearing, exhibits, and proof of service. These are the procedures a creditor is to use to object to an original plan filed by a debtor, pursuant to LBR 3015-1(c)(4). In this case, however, the trustee's objection to confirmation of the debtor's original plan was sustained and the debtor has filed an amended plan. It is clear First Nationwide's objection to confirmation was filed in response to the amended plan and to the debtor's motion to confirm it, Item 10 on this calendar. Thus, First Nationwide was required to file an opposition to the motion to confirm and to include on the opposition the same docket control number the debtor used for the motion, pursuant to LBR 9014-1(c)(4). See LBR 3015-1(d)(1). First Nationwide's choice instead to file an objection to confirmation, with its own notice of hearing and its own docket control number, has created confusion on the court's docket and unnecessary difficulty for the court in its review of these matters.

As a result, the objection will be overruled by minute order. No appearance is necessary. The court notes that no detriment will accrue to First Nationwide because the debtor's motion to confirm is being denied because of a service defect. First Nationwide is requested to observe the proper procedure in future matters.

31. 10-44434-D-13 JEFFREY WEDEPOHL AND MOTION TO VALUE COLLATERAL OF
JDP-1 MARIA CABRAL CITIBANK, N.A.
10-14-15 [48]

Final ruling:

This is the debtors' motion to value collateral of Citibank, N.A. (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) to the attention of an officer; (2) through a corporate agent for service of process, although not one registered with the California Secretary of State as agent for service of the Bank; and (3) at two different post office box addresses, with no attention line.

All three methods were insufficient because there is no evidence service was made by certified mail, as required by Rule 7004(h). The second method was insufficient for the additional reason that the rule requires service on an FDIC-insured institution, such as the Bank, to the attention of an officer whereas it is unlikely an officer of the Bank is to be found at the location of a corporate agent for service of process. The third method was insufficient for the additional reason that the rule requires service on an FDIC-insured institution to the attention of an officer whereas here, there was no attention line.

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

32. 10-40851-D-13 ROBERTO/OFELIA TORNERO MOTION TO VALUE COLLATERAL OF
JDP-1 BANK OF AMERICA, N.A.
10-14-15 [46]

33. 13-27868-D-13 BRENT/KATRINA CANNON MOTION TO INCUR DEBT
CJY-1 10-16-15 [18]

34. 15-26176-D-13 CARLTON RANDLE AND CONTINUED OBJECTION TO
RDG-1 CATHERINE DENOS CONFIRMATION OF PLAN BY RUSSELL
D. GREER
9-21-15 [17]

Final ruling:

Objection withdrawn by moving party. Matter removed from calendar.

35. 15-26579-D-13 JAMEESE GUESS OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
10-13-15 [39]

36. 15-26579-D-13 JAMEESE GUESS CONTINUED OBJECTION TO
VVF-1 CONFIRMATION OF PLAN BY
FLAGSHIP CREDIT ACCEPTANCE, LLC
9-17-15 [33]

Final ruling:

**This objection has been resolved by stipulated order entered October 16, 2015.
Matter removed from calendar.**

37. 15-26687-D-13 ARNOLD/MICHELLE JAMES OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
10-9-15 [16]

38. 15-27290-D-13 ALBERT/MARY HAYNES
JGL-1

MOTION TO VALUE COLLATERAL OF
WELLS FARGO DEALER SERVICES
10-19-15 [24]

39. 15-27290-D-13 ALBERT/MARY HAYNES
AP-1

MOTION TO CONFIRM TERMINATION
OR ABSENCE OF STAY
10-16-15 [17]

40. 15-26496-D-13 BELINDA SMITH
RDG-2

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
10-9-15 [37]

Final ruling:

This case was dismissed on October 22, 2015. As a result the objection will be overruled by minute order as moot. No appearance is necessary.

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41. 14-30697-D-13 CAROLE PETERSEN
RDG-2

CONTINUED MOTION TO RECONVERT
CASE TO CHAPTER 7
10-6-15 [149]