

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Robert S. Bardwil
Bankruptcy Judge
Sacramento, California

December 16, 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.	14-26801-D-13 CJY-1	RANDY/ROSANN SAN NICOLAS	MOTION TO INCUR DEBT 11-21-14 [28]
----	------------------------	--------------------------	---------------------------------------

2.	12-28807-D-13 CJY-1	ABEL/MARIA CALDERON	MOTION TO VALUE COLLATERAL OF WELLS FARGO BANK, N.A. 11-21-14 [25]
----	------------------------	---------------------	--

3.	14-28709-D-13	JAMES/ERICKA BARNEY	MOTION TO VALUE SECURED PORTION
	ALF-4		OF CLAIM OF STONEWOOD NO. 1
			11-14-14 [50]

Final ruling:

The matter is resolved without oral argument. This is the debtors' motion to value the secured claim of Stonewood No. 1 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 Stonewood No. 1's secured claim at \$0.00 by minute order. No further relief will be afforded. No appearance is necessary.

4.	14-28709-D-13	JAMES/ERICKA BARNEY	CONTINUED OBJECTION TO
	RDG-2		CONFIRMATION OF PLAN BY RUSSELL
			D. GREER
			10-21-14 [28]

5.	14-29811-D-13	GUADALUPE/JAIME HERNANDEZ	OBJECTION TO CONFIRMATION OF
	MDE-1		PLAN BY ONEWEST BANK, N.A.
			10-31-14 [21]

6.	14-29811-D-13	GUADALUPE/JAIME HERNANDEZ	OBJECTION TO CONFIRMATION OF
	RDG-2		PLAN BY RUSSELL D. GREER
			11-21-14 [30]

7. 14-30012-D-13 SEN NGUYEN AND EN CU OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY TRUSTEE RUSSELL D.
GREER
11-21-14 [26]
8. 11-48830-D-13 RENNE DEVINE MOTION TO MODIFY PLAN
TBK-8 11-7-14 [105]
9. 09-36332-D-13 LAWRENCE/PAMELA BORGES MOTION TO INCUR DEBT AND/OR
JDP-2 MOTION TO TRANSFER
11-14-14 [86]
10. 14-25132-D-13 KAREN CLEARY AMENDED MOTION TO CONFIRM PLAN
RLG-5 11-13-14 [65]

Final ruling:

The motion will be denied as moot. The debtor filed a fourth amended plan on November 25, 2014, making this motion moot. As a result the court will deny the motion without prejudice by minute order. No appearance is necessary.

11. 14-29932-D-13 JOSE/GLORIA HERNANDEZ OBJECTION TO CONFIRMATION OF
SW-1 PLAN BY ALLY FINANCIAL, INC.
10-27-14 [12]

Final ruling:

This objection has been resolved by stipulation of the parties, approved by order dated November 21, 2014. The matter will be removed from calendar.

12. 13-26034-D-13 GARY/SABRINA SCHWARTZ MOTION TO MODIFY PLAN
TBK-8 11-7-14 [118]

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.

13. 14-30039-D-13 FERNANDO/CATALINA MENDOZA OBJECTION TO CONFIRMATION OF
RDG-1 PLAN BY RUSSELL D. GREER
11-21-14 [21]

14. 14-29046-D-13 SHAHZAN ALI OBJECTION TO DEBTOR'S CLAIM OF
RDG-2 EXEMPTIONS
11-3-14 [19]

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 debtor's claim of exemptions. Moving party is to submit an appropriate order. No appearance is necessary.

15. 14-30347-D-13 ANTHONY DISOMMA
JCK-1

MOTION TO VALUE COLLATERAL OF
PRESTIGIO JEWELERS
11-13-14 [15]

Final ruling:

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

16. 14-29348-D-13 JAMES SHAWVER
RDG-3

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
11-10-14 [32]

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 debtor's claim of exemptions. Moving party is to submit an appropriate order. No appearance is necessary.

17. 14-29854-D-13 FABIAN PELAYES AND
RDG-1 DEOLINDA MOYANO

OBJECTION TO CONFIRMATION OF
PLAN BY RUSSELL D. GREER
11-21-14 [18]

18. 13-30768-D-13 SAMUEL/KAREN ARANDA
TBK-6

MOTION TO MODIFY PLAN
11-7-14 [67]

19. 13-26069-D-13 GINA TOSCANO
PGM-2

MOTION TO MODIFY PLAN
11-3-14 [52]

Final ruling:

This is the debtor's 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 party failed to serve the Internal Revenue Service, the Sacramento County Department of Social Services, and Isidro Toscano, listed on her Schedules E, F, and H, respectively, and failed to serve ARA Incorporated, listed on her amended Schedule F filed February 14, 2014. The court is aware the first two of these, the IRS and the Sacramento County Department of Social Services, were listed on the schedules as for "notice only." However, presumably, that means the debtor intended them to receive notice of the case, whereas they were not listed on the debtor's master address list and have not received notice of the case or of anything that has happened in it.

Isidro Toscano is listed on the debtor's Schedule H as the debtor's spouse; apparently, that is why he was not listed on the debtor's master address list or given formal notice of the case or of this motion. However, minimal research into the case law concerning § 101(5) and (10) of the Code discloses an extremely broad interpretation of "creditor," certainly one including individuals who are co-debtors on various obligations of the debtor. Thus, the debtor was required by Fed. R. Bankr. P. 2002(b) to serve him with this motion. Further, the debtor was required by Fed. R. Bankr. P. 1007(a)(1) to list Isidro Toscano on her master address list, but failed to do so. Finally, ARA Incorporated was listed by the debtor on her amended Schedule F as being owed \$16,685, making ARA the holder of the largest scheduled unsecured claim, almost as large as the total of the other unsecured claims combined. Obviously, the moving party was required by Fed. R. Bankr. P. 2002(b) to serve that creditor.

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

20. 14-25673-D-13 STEVEN TUCKER
RJ-2

CONTINUED MOTION TO CONFIRM
PLAN
9-17-14 [83]

Final ruling:

This is the debtor's motion to confirm a first modified chapter 13 plan. On November 25, 2014, the debtor filed a new motion to confirm the same plan. As a result of the filing of the new motion, the present motion is moot. The motion will be denied as moot by minute order. No appearance is necessary.

21. 14-26588-D-13 SCOTT/NANETTE SPEAKER
MSM-1

CONTINUED MOTION TO CONFIRM
PLAN
9-2-14 [21]

22. 13-35121-D-13 CHRISTOPHER/SAMANTHA CONTINUED MOTION TO MODIFY PLAN
SDM-1 EWING 10-22-14 [24]

Final ruling:

This matter has been resolved by an order entered on December 10, 2014. As such, the matter removed from calendar. No appearance is necessary.

23. 14-29931-D-13 LISA ROCHA OBJECTION TO CONFIRMATION OF
RDG-3 PLAN BY RUSSELL D. GREER
11-24-14 [25]

24. 09-39335-D-13 JORGE/ROSA RICO MOTION TO DISMISS CASE FOR
RDG-1 UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
11-24-14 [47]

**MATTER TO BE HEARD AT 10:30
A.M.**

25 14-31444-D-13 ANA/JOHN GONSALES MOTION TO EXTEND AUTOMATIC STAY
CJY-1 11-21-14 [8]

26.	14-29854-D-13	FABIAN PELAYES AND	OBJECTION TO CONFIRMATION OF
	MDE-1	DEOLINDA MOYANO	PLAN BY U.S. BANK NATIONAL
			ASSOCIATION
			11-26-14 [22]