

**UNITED STATES BANKRUPTCY COURT**  
Eastern District of California

Honorable W. Richard Lee  
Bankruptcy Judge  
Fresno, California

**Thursday, April 30, 2009**

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**INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS**  
**DEPARTMENT B - FRESNO**

1. The following rulings are tentative. The matter will be called and the court's final ruling will generally be placed on the record at the end of the calendar. **If no disposition is set forth below, the hearing will take place as scheduled.**

2. Matters resolved without oral argument:

If the moving party has received a response or is aware of any reason, such as a settlement, that a timely opposition may not have been filed, the moving party must contact Marlene Medina, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.

Moving party shall submit an appropriate form of order. When the debtor's discharge has been entered, proposed orders for relief from stay must reflect that the motion is dismissed as to the debtor and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.

If the parties resolve a matter by stipulation after the tentative ruling has been posted, but **before the formal order is entered on the docket**, the **moving party** may appear at the hearing and advise the court of the settlement or withdraw the motion. Alternatively, the parties may submit a stipulation and order to modify the court's intended ruling together with the proposed stipulation and order resolving the matter.

3. The court will not continue short cause evidentiary hearings scheduled below.

4. If a matter is denied without prejudice for any reason set forth below, the moving party shall file a new motion or objection to claim with a new docket control number. It may not simply re-notice the original motion.

9:00 A.M.

3. 08-17094-B-11 CULINARY INVESTORS, LLC CONT'D HEARING - CHAPTER 11  
STATUS CONFERENCE [8]

3/26  
PETER FEAR/Atty. for dbt.

Based on the debtor's status report, this status conference will be continued to May 28, 2009, at 9:00 a.m. No appearance is necessary. The debtor shall file the April monthly operating report and a status report not later than May 22, 2009.

10:00 A.M.

1. 08-17304-B-7 EDUARDO & BERTHA MALDONADO RESET STATUS CONFERENCE  
09-1006 [1]  
BETH STRATTON, CH. 7 TRUSTEE, VS.  
OMAR MALDONADO REQUEST FOR ENTRY OF DEFAULT  
FILED 4/20/09

3/12  
CHRISTOPHER SEYMOUR/Atty. for pl.

It appears this adversary proceeding has been settled or the defendant(s) default has been entered. The status conference will be dropped and may be reset by any party on 10 days' notice. The court will issue a Notice of Intent to Dismiss if the adversary proceeding has not been concluded or set for further status conference within 60 days. The plaintiff(s) may request an extension of this time up to 30 days by ex parte application for cause.

2. 09-10456-B-7 SANTIAGO ALVAREZ STATUS CONFERENCE  
09-1054 [1]  
FIA CARD SERVICES, N.A., VS.  
SANTIAGO ALVAREZ 4/16/09 FILED STIPULATION FOR  
ENTRY OF JUDGMENT AND SETTLEMENT  
AGREEMENT

JEROME YELSKY/Atty. for pl.

This matter will be dropped from calendar. The adversary proceeding has been resolved with a stipulated judgment. No appearance is necessary.

3. 08-17758-B-7 JARED AND MINDY MOLINE STATUS CONFERENCE  
09-1053 [1]  
GARY RONALD PHIPPS VS.

JARED MOLINE AND  
MINDY MOLINE

ROB ROLAN/Atty. for pl.

This status conference will be dropped from calendar because the record does not show that the summons and complaint have been served. The court will

issue a notice of intent to dismiss if the plaintiff does not get the complaint properly served with a reissued summons within 30 days.

4. 08-17172-B-7 ALVARINO M. ALVES CONT'D STATUS CONFERENCE  
09-1028 [1]  
JOHN ROSSI HAY COMPANY, INC., VS.  
ALVARINO M. ALVES DBA ALVES FAMILY 4/23/09 ORDER DISMISSING  
DAIRY ADVERSARY PROCEEDING  
4/9  
JUSTIN HARRIS/Atty. for pl.

**This adversary proceeding has already been dismissed. The scheduled hearing will therefore be dropped from calendar. No appearance is necessary.**

1:30 P.M.

1. 08-17305-B-13 EDWARD & LINDA WAGNER HEARING - DEBTOR'S MOTION TO  
RJR #4 CONFIRM SECOND MODIFIED CHAPTER  
PETITION FILED 11/12/08 13 PLAN [72]

RANDY RISNER/Atty. for dbt.

**The motion will be denied as moot. The case has been voluntarily converted to chapter 7.**

2. 08-17305-B-13 EDWARD & LINDA WAGNER HEARING - DEBTOR'S MOTION  
RJR #5 TO AVOID LIEN OF PACIFIC SERVICE  
PETITION FILED 11/12/08 CREDIT UNION [70]

RANDY RISNER/Atty. for dbt.

**The motion will be denied without prejudice. The schedules do not show that the debtors have claimed an exemption for the subject property. In addition, the record does not establish that the motion was served in compliance with Federal Rule of Bankruptcy Procedure 7004(b)(1) (service on an individual), 7004(b)(3) (corporation, partnership or unincorporated association) or 7004(h) (FDIC Insured Depository Institution). *In re Villar*, 317 B.R. 88 (9<sup>th</sup> Cir. BAP 2004). Information regarding service on a corporation may be obtained from the California Secretary of State's Internet Website, see <http://keplar.ss.ca.gov//list.html>. For a directory of FDIC Insured Institutions, see <http://www3.fdic.gov/idasp/main.asp>. Litigants are encouraged to attach a copy of their information source (web page, etc.) to the proof of service to assist the court in evaluating compliance with Rule 7004.**

8. 08-14010-B-13 FELICIDAD BRAVO HEARING - DEBTOR'S MOTION  
BN #1 TO CONFIRM FIFTH AMENDED  
PETITION FILED 7/9/08 CHAPTER 13 PLAN [96]

DOUGLAS CROWDER/Atty. for dbt.

The motion will be denied. There is no proof of service in the file. The record does not show that the modified plan and the motion were served on anybody.

12. 09-11419-B-13 STEPHANIE KING HEARING - DEBTOR'S MOTION  
SL #2 TO VALUE COLLATERAL OF BASSET  
PETITION FILED 2/23/09 PRIME LENDING UNDER 11 U.S.C.  
S.506(A) AND (D) [16]

SCOTT LYONS/Atty. for dbt.

The motion will be granted for cause shown without oral argument. The record reflects that the motion is unopposed. The respondent's mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The order will be effective upon confirmation of the chapter plan.

13. 09-11222-B-13 MARK & THERESA PARKER HEARING - DEBTORS' MOTION  
TCS #1 TO VALUE COLLATERAL OF SIERRA  
PETITION FILED 2/17/09 PACIFIC MORTGAGE COMPANY, INC.  
[19]

TIMOTHY SPRINGER/Atty. for dbt.

The motion will be granted for cause shown without oral argument. The record reflects that the motion is unopposed. The respondent's mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan.

15. 09-11928-B-13 RAFAEL REYES HEARING - MOTION FOR RELIEF  
APN #1 AND GRACIELA GAMBOA FROM STAY [14]  
PETITION FILED 3/11/09

WELLS FARGO FINANCIAL, VS.

AUSTIN NAGEL/Atty. for mv.

The motion will be granted without oral argument for cause shown. The record reflects that the motion is unopposed. If the prayer for relief includes a request for adequate protection, and/or a request for an award of attorney fees, those requests will be denied without prejudice. Adequate protection is unnecessary in light of the relief granted herein. A motion for attorney fees pursuant to 11 U.S.C. § 506(b), or applicable nonbankruptcy law must be separately noticed and separately briefed with appropriate legal authority and supporting documentation.

16. 09-10229-B-13 JEFFREY & CHERYL GONZALEZ HEARING - DEBTORS' MOTION  
DRJ #2 TO VALUE COLLATERAL OF  
PETITION FILED 1/13/09 BENEFICIAL CALIFORNIA, INC.  
[15]

DAVID JENKINS/Atty. for dbt.

The motion will be granted for cause shown without oral argument. The record reflects that the motion is unopposed. The respondent's mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The order will be effective upon confirmation of the chapter plan.

18. 08-17632-B-13 RICHARD AUDINO HEARING - MOTION FOR RELIEF  
JMS #1 AND BRITNEY SERPA FROM STAY [35]  
PETITION FILED 11/24/08

CHASE HOME FINANCE, LLC, VS.

JOHN SORICH/Atty. for mv.

The motion will be denied as moot. This secured claim is provided for in either Class 3 or Class 4 of the debtor(s) confirmed chapter 13 plan. The automatic stay for all Class 3 and Class 4 creditors was modified upon confirmation of the chapter 13 plan to permit enforcement of the creditor's remedies with regard to the collateral, so long as this case remains in chapter 13.

28. 08-17359-B-13 JESUS AVALOS MARTINEZ HEARING - MOTION FOR  
HDN #3 CONFIRMATION OF THIRD MODIFIED  
PETITION FILED 11/14/08 CHAPTER 13 PLAN [51]

HEARING RESCHEDULED TO 5/21/09  
AT 1:30 P.M.; ORDER FILED  
4/13/09

HENRY NUNEZ/Atty. for dbt.

The matter has been rescheduled to May 21, 2009, at 1:30 p.m. No appearance is necessary.

34. 09-11271-B-13 ROGER WILLIAMS ROWELL HEARING - ORDER TO SHOW CAUSE  
FOR FAILURE TO FILE CHAPTER 13  
PETITION FILED 2/17/09 PLAN; EXHIBIT D W/CERTIFICATE;  
MEANS TEST FORM 22C; SCHEDULES  
A-J; STATEMENT OF FINANCIAL  
AFFAIRS; STATISTICAL SUMMARY;  
SUMMARY OF SCHEDULES [16]

PRO SE

CASE DISMISSED 4/24/09

This case has already been dismissed. The scheduled hearing will therefore be dropped from calendar. No appearance is necessary.

39. 09-10387-B-13 JAMES L. DEALEY HEARING - DEBTOR'S MOTION  
GH #1 TO VALUE COLLATERAL OF LITTON  
PETITION FILED 1/20/09 LOAN SERVICING UNDER 11 U.S.C.  
S.506(A) AND (D) [18]

GARY HUSS/Atty. for dbt.

The motion will be granted for cause shown without oral argument. The

record reflects that the motion is unopposed. The respondent's mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan.

40. 08-17196-B-13 EVERETT LEE OLIVER CONT'D HEARING - TRUSTEE'S  
MHM #2 MOTION TO DISMISS [34]  
PETITION FILED 11/7/08

3/26  
MICHAEL MEYER, TRUSTEE

**The motion will be denied based on confirmation of the modified plan below.  
No appearance is necessary.**

41. 08-17196-B-13 EVERETT LEE OLIVER HEARING - DEBTOR'S MOTION  
GH #2 TO CONFIRM FIRST MODIFIED  
PETITION FILED 11/7/08 CHAPTER 13 PLAN [39]

GARY HUSS/Atty. for dbt.

**The motion will be granted for cause shown without oral argument. The record reflects that the motion is unopposed.**