

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable W. Richard Lee
Bankruptcy Judge
Fresno, California

Wednesday, August 12, 2009

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.

10:00 A.M.

2. [09-12504](#)-B-7 BRIAN WICK HEARING - U.S. TRUSTEE'S
UST #1 MOTION TO ENLARGE TIME TO FILE
SARA L. KISTLER, ACTING UNITED MOTION FOR DISMISSAL AND
STATES TRUSTEE, VS. COMPLAINT TO DENY DISCHARGE
TO SEPTEMBER 1, 2009 [[20](#)]

GREGORY POWELL/Atty. for mv.

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

3. [09-14617](#)-B-7 DAMON & REGINA GUNDERMAN HEARING - DEBTORS' MOTION
PLG #1 FOR REDEMPTION UNDER
11 U.S.C. S.722 [[11](#)]

NICHOLAS WAJDA/Atty. for dbt.

The motion will be denied. The right to redeem has not been properly perfected. The debtors did not file a statement of intention to redeem the automobile as required by 11 U.S.C. § 521(a)(2)(A). The record does not reflect that a statement of intention to redeem the automobile was served on the creditor pursuant to Federal Rule of Bankruptcy Procedure 1007(b)(2).

4. [08-12724](#)-B-7 VIC ALBERT BURNHAM HEARING - DEBTOR'S MOTION
GH #2 TO AVOID LIEN OF NATIONAL
CREDIT ACCEPTANCE, INC.
[[23](#)]

GARY HUSS/Atty. for dbt.

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

5. [08-12724](#)-B-7 VIC ALBERT BURNHAM HEARING - DEBTOR'S MOTION
GH #3 TO AVOID LIEN OF DATA-CENTRAL
COLLECTION BUREAU, LLC
[[19](#)]

GARY HUSS/Atty. for dbt.

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

7. [09-12631](#)-B-7 TERISA D. ROSE HEARING - DEBTOR'S MOTION
FJG #1 FOR AUTHORITY TO REDEEM PERSONAL
PROPERTY OF VW CREDIT, INC. AND
APPROVAL OF ASSOCIATED FINANCING
UNDER 11 U.S.C. 722
[[12](#)]

F. JOHN GIST/Atty. for dbt.

The motion will be denied. The right to redeem has not been properly perfected. The automobile was not exempted or abandoned as required by 11 U.S.C. § 722. The motion was not filed within 30 days after the date first set for the meeting of creditors as required by § 521(a)(2)(B). The record does not reflect that the statement of intention to redeem the automobile was served on the creditor pursuant to Federal Rule of Bankruptcy Procedure 1007(b)(2).

12. [05-62659](#)-B-7 CHARLES W. BRIGGS HEARING - AMENDED APPLICATION
LRP #4 OF GENERAL COUNSEL FOR CHAPTER
LANG, RICHERT & PATCH 11 DEBTOR FOR APPROVAL AND
PAYMENT OF FINAL FEES AND/OR
EXPENSES [[388](#)]

RENE LASTRETO, II/Applicant

The motion will be granted for cause shown without oral argument. The record reflects that the motion is unopposed. The fees and costs will be allowed as a chapter 11 administrative expense payable in order of priority at the close of the case.

11:00 A.M.

1. [09-15700](#)-B-7 JUAN & SONIA LUNA HEARING - MOTION FOR RELIEF
MBB #1 FROM STAY [[7](#)]
BANK OF AMERICA, N.A., VS.
DEBTORS' REQUEST FOR
REAFFIRMATION OF DEBT FILED
7/14/09

MARK DOMEYER/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.

4. [09-15615](#)-B-7 ARMANDO & ROSA CERVANTEZ HEARING - MOTION FOR RELIEF
MBB #1 FROM STAY [[8](#)]
BAC HOME LOANS SERVICING, LP., VS.
NON-OPPOSITION BY DEBTORS

MATTHEW TOKARZ/Atty. for mv.
MARK ZIMMERMAN/Atty. for dbt.

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.

5. [09-15817](#)-B-7 SERGIO M. FLORES HEARING - MOTION FOR RELIEF
JMS #1 AND SILVIA Y. SOTO FROM STAY [[9](#)]
CHASE HOME FINANCE LLC, VS.

JOHN SORICH/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.

6. [09-14325](#)-B-7 FRANCISCO & FATIMA MACIEL HEARING - AMENDED MOTION
JKB #1 FOR RELIEF FROM STAY [[26](#)]
HILTON RESORTS CORP., VS.

JULIAN BACH/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.

10. [09-13929](#)-B-7 GUSTAVO GUTIERREZ HEARING - MOTION FOR RELIEF
PD #2 AND EVANGELINA FLORES FROM STAY [[24](#)]
DEUTSCHE BANK NATIONAL TRUST
COMPANY, VS.

CASPER RANKIN/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.

13. [09-15037](#)-B-7 JOHN WESSELS HEARING - MOTION FOR RELIEF
BMS #1 FROM STAY OR FOR ADEQUATE
MAZDA AMERICAN CREDIT, VS. PROTECTION [[11](#)]

BETH STRATTON/Atty. for mv.

The motion will be denied as moot. The debtor(s) is (are) an individual(s). The record does not show that the personal property collateral for this secured claim was redeemed or surrendered within the applicable time set by § 521(a)(2). Similarly, the record does not reflect that the loan was reaffirmed or that the movant denied a request to reaffirm the loan on the original contract terms. Therefore, pursuant to 11 U.S.C. § 362(h), the collateral is no longer property of the estate and the automatic stay has already terminated by operation of law. Movant may submit an order denying the motion, and confirming that the automatic stay has already terminated on the grounds set forth above. No attorney fees will be awarded in relation to this motion.

14. [09-13038](#)-B-7 RODNEY & ANITA VALDEZ HEARING - MOTION FOR RELIEF
PPR #1 FROM STAY [[19](#)]
U.S. BANK, NA, VS.

DISCHARGED 7/31/09

CASSANDRA RICHEY/Atty. for mv.

The motion will be denied as moot as to the debtor(s), their discharge having been entered. The motion will be granted for cause shown as to the Chapter 7 trustee. 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.

24. [09-15363](#)-B-7 GARY & PATRICIA WILLHITE HEARING - MOTION FOR RELIEF
SW #1 FROM STAY [[16](#)]
WACHOVIA DEALER SERVICES, INC., VS.

BERNARD KORNBERG/Atty. for mv.

The motion will be denied as moot. The debtor(s) is (are) an individual(s). The record does not show that the personal property collateral for this secured claim was redeemed or surrendered within the applicable time set by § 521(a)(2). Similarly, the record does not reflect that the loan was reaffirmed or that the movant denied a request to reaffirm the loan on the original contract terms. Therefore, pursuant to 11 U.S.C. § 362(h), the collateral is no longer property of the estate and the automatic stay has already terminated by operation of law. Movant may submit an order denying the motion, and confirming that the automatic stay has already terminated on the grounds set forth above. No attorney fees will be awarded in relation to this motion.

27. [09-13270](#)-B-7 STUART L. MORTON HEARING - MOTION FOR RELIEF
EAT #1 FROM STAY [[24](#)]
CHASE HOME FINANCE LLC, VS. DISCHARGED 7/21/09

MARISOL NAGATA/Atty. for mv.

The motion will be denied as moot as to the debtor(s), their discharge having been entered. The motion will be granted for cause shown as to the Chapter 7 trustee. 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.

28. [09-14870](#)-B-7 LAWRENCE HAWKINS HEARING - MOTION FOR RELIEF
PD #1 FROM STAY [[23](#)]
JPMORGAN CHASE BANK, N.A., VS.

CASPER RANKIN/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.

30. [09-12071](#)-B-7 KENNETH & GAYLE MURBERGER HEARING - MOTION FOR RELIEF
RCO #1 FROM STAY [[18](#)]
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., VS. DISCHARGED 7/7/09

JONATHAN DAMEN/Atty. for mv.

The motion will be denied as moot as to the debtor(s), their discharge having been entered. The motion will be granted for cause shown as to the Chapter 7 trustee. 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.

31. [09-13171](#)-B-7 HARRY & JENNIFER PIERSON HEARING - MOTION FOR RELIEF
MDE #1 FROM STAY [[17](#)]
NATIONSTAR MORTGAGE, VS.

MARK ESTLE/Atty. for mv.

The motion will be denied as moot as to the debtor(s), their discharge having been entered. The motion will be granted for cause shown as to the Chapter 7 trustee. 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.

33. [09-15574](#)-B-7 RANDY & CONSTANCE SMITH HEARING - MOTION FOR RELIEF
PD #1 FROM STAY [[8](#)]
FRESNO COUNTY FEDERAL CREDIT UNION,
VS.

ERIN LANEY/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.

35. [09-15680](#)-B-7 JEFFREY & ROSA PAVEY HEARING - MOTION FOR RELIEF
BMS #1 FROM STAY OR FOR ADEQUATE
FORD MOTOR CREDIT COMPANY, LLC, VS. PROTECTION RE: 2007 FORD E-250
[[17](#)]

BETH STRATTON/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.

37. [09-15680](#)-B-7 JEFFREY & ROSA PAVEY HEARING - MOTION FOR RELIEF
BMS #2 FROM STAY OR FOR ADEQUATE
FORD MOTOR CREDIT COMPANY, LLC, VS. PROTECTION RE: 2005 FORD F-450
[[10](#)]

BETH STRATTON/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.

39. [09-15381](#)-B-7 JOHN & JACKIE COOK HEARING - MOTION FOR RELIEF
MBL #1 FROM STAY [[9](#)]
MIDFIRST BANK, VS.

MATTHEW LEARNED/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.

41. [07-12983](#)-B-7 GENARO HERNANDEZ HEARING - MOTION FOR RELIEF
PD #1 FROM STAY [[25](#)]
DEUTSCHE BANK NATIONAL TRUST
COMPANY, VS. DISCHARGED 1/2/08

CASPER RANKIN/Atty. for mv.

The motion will be denied as moot as to the debtor(s), their discharge having been entered. The motion will be granted for cause shown as to the Chapter 7 trustee. 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.

42. [09-14083](#)-B-7 HECTOR & CARMEN CABRERA HEARING - MOTION FOR RELIEF
DMM #1 FROM STAY [[15](#)]
WACHOVIA MORTGAGE, FSB, VS.

DAVE MCGRAW/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.

43. [09-13384](#)-B-7 TEDDY & NORA POOL HEARING - MOTION FOR RELIEF
PPR #1 FROM STAY [[19](#)]
HONDA LEASE TRUST, VS. DISCHARGED 7/15/09

CASSRANDA RICHEY/Atty. for mv.

The motion will be denied as moot as to the debtor(s), their discharge having been entered. The motion will be granted for cause shown as to the Chapter 7 trustee. 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.

11:30 A.M.

8. [09-14653](#)-B-7 MARC & NOELANI GIGUIERE HEARING - APPROVAL OF
BMS #1 REAFFIRMATION AGREEMENT
WITH CAB WEST, LLC [[18](#)]

BETH STRATTON/Atty. for mv.

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