

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable W. Richard Lee
Bankruptcy Judge
Fresno, California

Thursday, August 13, 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.

9:00 A.M.

2. [08-16768](#)-B-11 BIG3D, INC. CONT'D HEARING - FURTHER
CHAPTER 11 STATUS CONFERENCE
[[11](#)]

7/30
HILTON RYDER/Atty. for dbt.

Based on the Debtor's status report, this matter will be continued to September 4, 2009, at 9:00 a.m. No appearance is necessary.

3. [09-13995](#)-B-11 KENNETH R. HALE HEARING - APPLICATION FOR
WW #11 PAYMENT OF INTERIM FEES AND/OR
WALTER & WILHELM LAW GROUP EXPENSES (COUNSEL FOR DEBTOR)
[[154](#)]

RILEY WALTER/Atty. for dbt.

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

10:00 A.M.

1. [09-13508](#)-B-7 RAIN DICKEY-O'BRIEN FURTHER STATUS CONFERENCE
[09-1084](#) [1]
RAIN DICKEY-O'BRIEN, VS.
INTERNAL REVENUE SERVICE; STATE OF STIPULATON JUDGMENT FILED
NEW MEXICO TAXATION & REVENUE DEPT. 7/2/09
7/17
RAIN DICKEY-O'BRIEN, PRO SE

Pursuant to this court's order dated August 7, 2009, the request for entry of default against the State of New Mexico has been denied and the status conference has been dropped from calendar to be reset in a reissued summons. No appearance is necessary.

4. [08-10115](#)-B-7 MARTHA JEAN BARIGIAN FURTHER STATUS CONFERENCE
[08-1271](#) [1]
JAMES SALVEN, CH. 7 TRUSTEE, VS. CONT'D ANSWER BY DEFENDANT

LORI MANWEILER

6/25
T. SCOTT BELDEN/Atty. for pl.
DOUGLAS THORNTON/Atty. for def.

Based on the plaintiff's status report, this matter will be continued to September 24, 2009, at 10:00 a.m., for resolution of any discovery disputes. Plaintiff shall file a status report if discovery is not complete and the case not ready for trial setting. No appearance is necessary.

5. [08-10115](#)-B-7 MARTHA JEAN BARIGIAN FURTHER STATUS CONFERENCE
[08-1272](#) [1]
JAMES SALVEN, CH. 7 TRUSTEE, VS. CONT'D ANSWER BY DEFENDANT

RAYNARD BERGMAN III AKA
RYNARD BERGMAN III
6/25
T. SCOTT BELDEN/Atty. for pl.
RYNARD BERGMAN, III, PRO SE

Based on the plaintiff's status report, this matter will be continued to September 24, 2009, at 10:00 a.m., for resolution of any discovery disputes. Plaintiff shall file a status report if discovery is not complete and the case not ready for trial setting. No appearance is necessary.

6. [08-10115](#)-B-7 MARTHA JEAN BARIGIAN FURTHER STATUS CONFERENCE
[08-1273](#) [1]
JAMES SALVEN, CH. 7 TRUSTEE, VS. CONT'D ANSWER BY DEFENDANTS

MARK MCQUINN, EARL T. MCQUINN, BETTY
MCQUINN, ET AL.
6/25
T. SCOTT BELDEN/Atty. for pl.
DOUGLAS THORNTON/Atty. for def.

Based on the plaintiff's status report, this matter will be continued to September 24, 2009, at 10:00 a.m., for resolution of any discovery disputes. Plaintiff shall file a status report if discovery is not complete and the case not ready for trial setting. No appearance is necessary.

7. [09-11651](#)-B-7 CHRISTOPHER CAMPAGNA STATUS CONFERENCE
[09-1107](#) [1]
CHRISTA TORRES, VS. ANSWER BY DEFENDANT

CHRISTOPHER CAMPAGNE

WALTER WHELAN/Atty. for pl.
MARK DIVELBISS/Atty. for def.

This matter has been rescheduled by stipulation of the parties to September 24, 2009, at 10:00 a.m. No appearance is necessary.

8. [09-14595](#)-B-12 ROY & DONNA GARRETT STATUS CONFERENCE
[09-1122](#) [1]
ROY E. GARRETT AND DONNA S. GARRETT,
VS.
UNITED SECURITY BANK

RILEY WALTER/Atty. for pl.

This matter has been rescheduled to the chapter 12 calendar on August 27, 2009, at 3:00 p.m., pursuant to stipulation and order dated August 12, 2009. No appearance is necessary.

9. [09-15609](#)-B-13 VICKIE LYNN HAYER
PLG #1
PETITION FILED 6/16/09
- HEARING - DEBTOR'S MOTION
FOR VALUATION OF SECURITY;
DETERMINATION OF SECURED STATUS
AND AVOIDANCE OF LIEN AND
MODIFICATION OF RIGHTS OF
LIENHOLDER (11 U.S.C. S.506(A)
AND 1322(B); FRBP
[12]
- NICHOLAS WAJDA/Atty. for dbt.

The motion will be denied without prejudice. The motion requests relief (extinguishment of a consensual lien against real property) which will require an adversary proceeding after the successful completion of the chapter 13 plan.

12. [09-15916](#)-B-13 MARI LEMKE
THA #2
PETITION FILED 6/25/09
- HEARING - DEBTOR'S MOTION
TO VALUE COLLATERAL OF BANK OF
AMERICA [15]

THOMAS ARMSTRONG/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 junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor(s) may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge. The order will be effective upon confirmation of the chapter 13 plan.

13. [09-15333](#)-B-13 LARRY JUNIOR WYRICK
JRJ #1
PETITION FILED 6/9/09
- HEARING - DEBTOR'S MOTION
TO VALUE COLLATERAL OF FIRST
HORIZON [12]

J. RODERICK JARRETT/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 junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor(s) may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge. The order will be effective upon confirmation of the chapter 13 plan.

18. [09-13142](#)-B-13 MARI NAHAPETIAN
APN #1
PETITION FILED 4/10/09
- HEARING - MOTION FOR RELIEF
FROM STAY [29]

TOYOTA LEASE TRUST, VS.

AUSTIN NAGEL/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.

19. [09-14942](#)-B-13 MIKE & CELIA ARREOLA HEARING - TRUSTEE'S MOTION
MHM #1 TO DISMISS [[65](#)]
PETITION FILED 5/29/09
OPPOSITION BY DEBTORS

MICHAEL MEYER, TRUSTEE
ADRIAN S. WILLIAMS/Atty. for dbt.

The matter will be continued to September 15, 2009, at 1:30 p.m., for hearing with confirmation of the modified plan. No appearance is necessary.

22. [09-15443](#)-B-13 DAWN FERTIG HEARING - OBJECTION TO
BRL #1 CONFIRMATION OF CHAPTER 13 PLAN
PETITION FILED 6/11/09 BY RICHARD KASH [[20](#)]
CASE DISMISSED 7/24/09

BENJAMIN LEVINSON/Atty. for obj.

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

23. [09-15443](#)-B-13 DAWN FERTIG HEARING - TRUSTEE'S MOTION
MHM #1 TO DISMISS [[25](#)]
PETITION FILED 6/11/09
CASE DISMISSED 7/24/09

MICHAEL MEYER, TRUSTEE

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

25. [09-13350](#)-B-13 JESUS QUEZADA, JR. HEARING - TRUSTEE'S MOTION
MHM #1 AND MARIA QUEZADA TO DISMISS [[38](#)]
PETITION FILED 4/16/09

MICHAEL MEYER, TRUSTEE

The matter will be continued to August 27, 2009, at 1:30 p.m., for hearing with confirmation of the modified plan. No appearance is necessary.

27. [09-15150](#)-B-13 CHRIS & SANDRA RAMIREZ HEARING - DEBTORS' MOTION
LEH #3 TO VALUE COLLATERAL OF WELLS
PETITION FILED 6/3/09 FARGO FINANCIAL (2ND DEED OF
TRUST) UNDER 11 U.S.C. S.506
(A) AND (D) [[17](#)]

MICHAEL MEYER, TRUSTEE

The motion will be denied without prejudice. The record does not establish that the motion was served on the creditor 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 (9th 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.

30. [09-14858](#)-B-13 JOHNNY SANCHEZ, JR. HEARING - DEBTORS' MOTION
PLG #1 AND JENNIE SANCHEZ FOR VALUATION OF SECURITY;
PETITION FILED 5/27/09 DETERMINATION OF SECURED STATUS
AND AVOIDANCE OF LIEN AND
MODIFICATION OF RIGHTS OF
LIENHOLDER RE: WELLS FARGO
FINANCIAL [[14](#)]

ALLAN S. WILLIAMS/Atty. for dbt.

The motion will be denied without prejudice. The motion requests relief (extinguishment of a consensual lien against real property) which will require an adversary proceeding after the successful completion of the chapter 13 plan.

32. [09-13163](#)-B-13 KIRT & ROCHELLE CARR HEARING - DEBTORS' MOTION
PLF #1 TO VALUE COLLATERAL OF WACHOVIA
PETITION FILED 4/10/09 MORTGAGE FOR PURPOSE OF
STRIPPING LIEN OF WACHOVIA
MORTGAGE [[20](#)]

PETER FEAR/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 junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor(s) may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge.

33. [07-12567](#)-B-13 ALBERTICO & VICKI MARTINEZ CONT'D HEARING - DEBTORS' MOTION
MAZ #2 FOR ENTRY OF CHAPTER 13
PETITION FILED 8/20/07 DISCHARGE 11 USC S.1328(H)
[[48](#)]

7/30

MARK ZIMMERMAN/Atty. for dbt.

The debtors' motion for entry of a chapter 13 discharge shall be granted for cause shown without oral argument. The record reflects that the motion is unopposed. After the chapter 13 trustee certifies that the case has been fully administered and is ready for closure, the case manager shall enter the debtors' discharge and process the case for closure.

34. [09-15867](#)-B-13 VICTOR & BEVERLY VIERA
THA #2
PETITION FILED 6/24/09
- HEARING - DEBTORS' MOTION
TO VALUE COLLATERAL OF JPMORGAN
CHASE [[15](#)]

THOMAS ARMSTRONG/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 junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor(s) may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge. The order will be effective upon confirmation of the chapter 13 plan.

35. [09-13875](#)-B-13 ALBERT LABONTE, II.
MHM #2
PETITION FILED 4/29/09
- HEARING - TRUSTEE'S MOTION
TO DISMISS [[37](#)]
- TRUSTEE'S SUPPLEMENTAL MOTION
FILED 7/13/09 [[42](#)]
- CONVERTED TO CHAPTER 7 8/7/09
- MICHAEL MEYER, TRUSTEE

The motion will be denied as moot, The case has been converted to chapter 7. No appearance is necessary.

36. [04-19280](#)-B-13 JOHN BISCONER
PBB #2
PETITION FILED 11/3/04
- HEARING - DEBTOR'S MOTION
TO CONFIRM FIRST MODIFIED
CHAPTER 13 PLAN PURSUANT TO
11 USC SECTION 1329 [[41](#)]

PETER BUNTING/Atty. for dbt.

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

37. [09-16281](#)-B-13 MARIA ELOISA MORENO
PETITION FILED 7/2/09
- HEARING - ORDER TO SHOW CAUSE
FOR FAILURE TO FILE CHAPTER 13
PLAN; EXHIBIT D W/CERTIFICATE;
MEANS TEST FORM 22C; SCHEDULES
A-J; STATEMENT OF FINANCIAL
AFFAIRS; STATISTICAL SUMMARY;
SUMMARY OF SCHEDULES [[12](#)]
- PRO SE
- CASE DISMISSED 8/6/09

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

38. [09-14583](#)-B-13 JOSE & CRYSTAL TREVINO
TCS #1
PETITION FILED 5/18/09
- HEARING - DEBTORS' MOTION
TO VALUE COLLATERAL OF FIRST
MAGNUS FINANCIAL CORPORATION
[[16](#)]

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 junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor(s) may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge. The order will be effective upon confirmation of the chapter 13 plan.

39. [09-14583](#)-B-13 JOSE & CRYSTAL TREVINO HEARING - DEBTORS' MOTION
TCS #2 TO VALUE COLLATERAL OF BANK
PETITION FILED 5/18/09 OF THE WEST [[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 secured claim will be fixed at \$17,900. The order will be effective upon confirmation of the chapter 13 plan.

40. [09-15191](#)-B-13 ISIDRO & LORENA RAMOS HEARING - TRUSTEE'S MOTION
MHM #1 TO DISMISS [[25](#)]
PETITION FILED 6/4/09

MICHAEL MEYER, TRUSTEE

The matter will be continued to September 4, 2009, at 1:30 p.m., for hearing with confirmation of the modified plan. No appearance is necessary.

41. [09-14993](#)-B-13 DAVID & RITA RODRIGUEZ HEARING - TRUSTEE'S MOTION
MHM #1 TO DISMISS [[17](#)]
PETITION FILED 5/29/09
RESPONSE BY DEBTORS

MICHAEL MEYER, TRUSTEE
JAMES PADRON/Atty. for dbt.

The matter will be continued to August 27, 2009, at 1:30 p.m., for hearing with confirmation of the modified plan. No appearance is necessary.

3:00 P.M.

2. [09-14595](#)-B-12 ROY & DONNA GARRETT HEARING - APPLICATION FOR
WW #5 PAYMENT OF INTERIM FEES AND/OR
WALTER & WILHELM LAW GROUP EXPENSES (COUNSEL FOR DEBTOR)
[[30](#)]

RILEY WALTER/Atty. for dbt.

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

3. [09-14595](#)-B-12 ROY & DONNA GARRETT HEARING - DEFENDANT'S MOTION
[09-1122](#) DJP #1 TO STRIKE DEMAND FOR JURY TRIAL
ROY E. GARRETT AND DONNA S. [[9](#)]
GARRETT, VS.
UNITED SECURITY BANK

DON POOL/Atty. for def.

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