

UNITED STATES BANKRUPTCY COURT
Eastern District of California

Honorable W. Richard Lee
Bankruptcy Judge
Fresno, California

Wednesday, August 20, 2008

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.

4. 07-10900-B-7 RICHARD WARNER, JR. HEARING - TRUSTEE'S MOTION
RHT #2 FOR ORDER TO ABANDON REAL
PROPERTY FROM THE BANKRUPTCY
ESTATE [38]

ROBERT HAWKINS, TRUSTEE

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

5. 08-10500-B-7 LEE & MONICA BORGIOLI FINAL HEARING - MOTION FOR
WGM #1 RELIEF FROM STAY [54]
OPTION ONE MORTGAGE CORP., VS. CONT'D OPPOSITION BY DEBTOR AND
CONDITIONAL COUNTER-MOTION

6/19
WILLIAM MALCOLM/Atty. for mv.
PETER FEAR/Atty. for dbt.

This matter was set for a final hearing on the debtors' objection. Supplemental pleadings and evidence to support the objection were due two weeks before the final hearing. Nothing else has been filed. Accordingly, the motion will be granted without further oral argument for cause shown. 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. 08-12301-B-7 FERNANDO & JANET BECERRA HEARING - MOTION FOR RELIEF
JMS #1 FROM STAY [51]
CITI RESIDENTIAL LENDING, INC., 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.

7. 08-12601-B-7 DAVID & BARBARA GOULD HEARING - MOTION FOR RELIEF
PD #1 FROM STAY [49]
AMERICA'S SERVICING COMPANY, VS.

CHRISTOPHER MCDERMOTT/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.

8. 07-14006-B-7 GREGORY & LORI HOLDER HEARING - TRUSTEE'S OBJECTION
JES #1 TO ALLOWANCE OF CLAIM NO. 1
FILED BY COMMERCIAL TRADE BUREAU
OF CALIFORNIA [52]

JAMES SALVEN, TRUSTEE

The objection will be sustained and/or modified as follows: Claim #2 is deemed to supersede and replace claim #1.

12. 08-13411-B-7 ROCIO TORRES HEARING - MOTION FOR RELIEF
DMG #1 AND JAVIER ZARAGOZA FROM STAY [19]
CITIFINANCIAL AUTO CORP., VS.

DAVID GOODRICH/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.

13. 08-13012-B-7 ANGEL VALERIO HEARING - MOTION FOR RELIEF
PD #1 AND ELVA VELASQUEZ FROM STAY [31]
GMAC MORTGAGE, LLC, VS.

CHRISTOPHER MCDERMOTT/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.

15. 07-13014-B-7 VIENG & KESONE HONGTHAMALY HEARING - TRUSTEE'S MOTION
08-1038 RH #11 FOR ORDER APPROVING COMPROMISE
SHERYL STRAIN, CH. 7 TRUSTEE OF CONTROVERSY AND TO DISMISS
ADVERSARY PROCEEDING 08-1038-B
THYSSENKRUPP SAFWAY INC. [20]

ROBERT HAWKINS/Atty. for pl.

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

16. 08-13720-B-7 GEORGE & TACY ANDERSEN HEARING - MOTION FOR RELIEF
JHW #1 FROM STAY [12]
DAIMLERCHRYSLER FINANCIAL SERVICES
AMERICAS LLC, VS.

JENNIFER WANG/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.

17. 05-12321-B-7 KARL & MARGARET BRAWNER HEARING - APPLICATIONS FOR
COMPENSATION:
ROBERT HAWKINS, TRUSTEE [63]
JEFFREY WALL, ATTORNEY FOR
TRUSTEE [42]
JANZEN, TAMBERI & WONG,
ACCOUNTANTS FOR TRUSTEE [58]

The matter will be continued to September 24, 2008, at 10:00 a.m. The Trustee shall file a supplemental declaration explaining why the legal work expended in conjunction with adversary proceedings nos. 05-1243 and 06-1297 was necessary, reasonable and beneficial to the estate in light of the IRS's substantial tax lien against the subject property. Specifically, the Trustee should explain what efforts were made to evaluate the potential value of the adversary proceedings before they were filed.

The Narrative Report of Jeffrey L. Wall filed in support of his final fee application refers to a "settlement with the IRS," which does not appear in the record as a compromise of controversy under Rule 9019. The adversary proceeding against the IRS was dismissed by stipulation of the parties without any reference to a corresponding "settlement."

The Narrative Report of Jeffrey L. Wall and the Trustee's motion to approve sale of real property both refer to a "carve out" of \$10,000 "for the benefit of unsecured creditors." Yet, the Trustee's final report shows that all of the money remaining in this estate will go to pay the Trustee and the Trustee's professionals with nothing for the unsecured creditors.

The court notes that the Trustee's final report was approved by the United States Trustee. The United States Trustee shall file a statement explaining why she approved the Trustee's final report notwithstanding the above-referenced unresolved issues.

19. 08-13736-B-7 JUAN HERRERA-ALVARADO HEARING - MOTION FOR RELIEF
PD #1 AND DORIS CENTENO FROM STAY [10]
AMERICA'S SERVICING COMPANY, VS.

CHRISTOPHER MCDERMOTT/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.

20. 08-13742-B-7 HOANG VAN DINH HEARING - MOTION FOR RELIEF
APN #1 AND DA THI TRAN FROM STAY [11]
NISSAN INFINITI, LT., 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.

23. 08-13456-B-7 SERAFIN & MAYRA LUNA HEARING - MOTION FOR RELIEF
MBB #1 FROM STAY [25]
MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC. , VS.

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.

24. 08-13562-B-7 PENNY U. ALLAMPRESE HEARING - MOTION FOR RELIEF
PD #1 FROM STAY [11]
HOME LOAN SERVICES, INC., VS.

CHRISTOPHER MCDERMOTT/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.

26. 08-10964-B-7 JEFF ALLAN MCCOON HEARING - MOTION FOR RELIEF
MDE #1 FROM STAY [88]
LITTON LOAN SERVICING, LP, VS.

CASE DISMISSED 8/18/08

MARK ESTLE/Atty. for mv.

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

33. 08-13699-B-7 GERALD & JEANETTE BISHOP HEARING - MOTION FOR RELIEF
EAT #1 FROM STAY [10]
U.S. BANK NATIONAL ASSOCIATION AS
TRUSTEE , VS.

EDWARD TREDER/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.

11:00 A.M.

1. 08-12606-B-7 RICKY & CAROL SON HEARING - APPROVAL OF
BMS #1 REAFFIRMATION AGREEMENT WITH

BETH STRATTON /Atty. for mv.

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