

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto
Hearing Date: Wednesday, January 27, 2016
Place: Department B – Courtroom #13
Fresno, California

INSTRUCTIONS FOR PRE-HEARING DISPOSITIONS

1. The following rulings are tentative. The tentative ruling will not become the final ruling until the matter is called at the scheduled hearing. **Pre-disposed matters will generally be called, and the rulings placed on the record at the end of the calendar.** Any party who desires to be heard with regard to a pre-disposed matter may appear at the hearing. If the party wishes to contest the tentative ruling, he/she shall notify the opposing party/counsel of his/her intention to appear. **If no disposition is set forth below, the hearing will take place as scheduled.**

2. Submission of Orders:

Unless the tentative ruling expressly states that the court will prepare a civil minute order, then the tentative ruling will only appear in the minutes. If any party desires an order, then the appropriate form of order, which conforms to the tentative ruling, must be submitted to the court. When the debtor(s) discharge has been entered, proposed orders for relief from stay must reflect that the motion is denied as to the debtor(s) and granted only as to the trustee. Entry of discharge normally is indicated on the calendar.

3. Matters Resolved Without Opposition:

If the tentative ruling states that no opposition was filed, and the moving party is aware of any reason, such as a settlement, why a response may not have been filed, the moving party must advise Vicky McKinney, the Calendar Clerk, at (559) 499-5825 by 4:00 p.m. the day before the scheduled hearing.

4. Matters Resolved by Stipulation:

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 tentative ruling together with the proposed order resolving the matter.

5. Resubmittal of Denied Matters:

If the moving party decides to re-file a matter that is denied without prejudice for any reason set forth below, the moving party must file and serve a new set of pleadings with a new docket control number. It may not simply re-notice the original motion.

THE COURT ENDEAVORS TO PUBLISH ITS PREDISPOSITIONS AS SOON AS POSSIBLE, HOWEVER CALENDAR PREPARATION IS ONGOING AND THESE PREDISPOSITIONS MAY BE REVISED OR UPDATED AT ANY TIME PRIOR TO 4:00 P.M. THE DAY BEFORE THE SCHEDULED HEARINGS. PLEASE CHECK AT THAT TIME FOR POSSIBLE UPDATES.

9:30 A.M.

1. [15-13503](#)-B-7 JANA RIPIPORTELLA CONTINUED OPPOSITION RE:
PFT-1 TRUSTEE'S MOTION TO DISMISS FOR
FAILURE TO APPEAR AT SEC.
341(A) MEETING OF CREDITORS
11-23-15 [[15](#)]
- EDWARD KERNS/Atty. for dbt.
PETER FEAR/Atty. for mv.

This matter will be continued to February 10, 2016, at 9:30 a.m. If the debtor appears at her continued meeting of creditors and the trustee is satisfied that all documents have been provided, the trustee shall withdraw his motion.

In addition, the time prescribed in Rules 1017(e) (1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the Debtor(s) discharge or to move for dismissal of the case under Section 707(b) will be extended to 60 days after the conclusion of the meeting of creditors. The court will prepare and enter a civil minute order. No appearance is necessary.

2. [15-13816](#)-B-7 ISABEL/ANTONIO LOPEZ MOTION TO SELL
TMT-1 12-22-15 [[15](#)]
TRUDI MANFREDO/MV
MARIO LANGONE/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent(s) default will be entered and the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

3. [15-13918](#)-B-7 MICHAEL/ANGELA STRAMBI
EAT-1
U.S. BANK NATIONAL
ASSOCIATION/MV
JERRY LOWE/Atty. for dbt.
DARLENE VIGIL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-17-15 [[27](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The debtors' default will be entered and the motion will be granted without oral argument for cause shown. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code 2923.5 to the extent that it applies. If the notice and motion requested a waiver of Federal Rules of Bankruptcy Procedure 4001(a)(3), that relief will be granted. Unless the court expressly orders otherwise, the proposed order shall not include any other relief. 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. No appearance is necessary.

CARLOS GARCIA/MV
GLEN GATES/Atty. for dbt.
CYNTHIA ARROYO/Atty. for mv.
RESPONSIVE PLEADING

This motion is hereby designated as DC No. CAA-1. Based on the debtor's opposition, this matter will be continued to March 23, 2016, at 1:30 p.m., to be heard in connection with the status conference on the related adversary proceeding, 16-01009. This matter is now deemed to be a contested matter. Pursuant to Federal Rules of Bankruptcy Procedure 9014(c), the federal rules of discovery apply to contested matters. The parties shall immediately commence formal discovery, meet and confer, and set deposition dates if necessary. If the matter is not resolved by the continued hearing date the court intends to consolidate the motion in this case with the related motion, DC No. CAA-1 (document # 21) in case number 15-14228.

Under § 362(e) (2), and without rendering a final decision on the merits, the court finds that the 60 day period for automatic termination of the stay shall be continued to March 23, 2016, subject to further extension, for cause, including the following:

(a) Thus far uncontroverted evidence in opposition to the motion establishes a significant question as to the *bona fides* of debtor's signature on the note and deed of trust at issue;

(b) Thus far uncontroverted evidence in opposition to the motion establishes significant dispute as to the payors under the promissory note at issue;

(c) Movant's evidence of the promissory note includes ambiguous language as to the principal balance of the note;

(d) Debtor's schedule D does not include the deed of trust at issue (Doc. # 1);

(e) Debtor's schedules list movant as a creditor with a disputed and unliquidated unsecured claim of \$133,000;

(f) Thus far, movant has presented no evidence of imminent danger to the real property at issue, i.e., waste, violations of the law, lack of insurance, impending tax sale, etc.; and

(g) Debtor has instituted an adversary proceeding (identified above) that raises issues fundamental to the resolution of this motion. Judicial economy will be served by consolidating the claims of the parties and avoiding conflicting or staggered rulings.

The court will prepare and enter a civil minute order.

5. [15-12645](#)-B-7 KENNETH KLIEWER
RHT-1
ROBERT HAWKINS/MV
JOEL WINTER/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.

MOTION FOR TURNOVER OF PROPERTY
12-18-15 [[28](#)]

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent's default will be entered and the motion will be granted without oral argument for cause shown. The trustee shall submit a proposed order that specifically describes the personal property to be turned over. No appearance is necessary.

6. [15-13745](#)-B-7 MARIA MORALES
TMT-1

CONTINUED OPPOSITION RE:
TRUSTEE'S MOTION TO DISMISS FOR
FAILURE TO APPEAR AT SEC.
341(A) MEETING OF CREDITORS
11-25-15 [[15](#)]

THOMAS GILLIS/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

The trustee's opposition has been withdrawn. Debtor's counsel shall inform debtor that no appearance is necessary.

7. [15-14256](#)-B-7 KATHRYN DORAN
TMT-1
TRUDI MANFREDO/MV
SCOTT LYONS/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

MOTION TO SELL
12-30-15 [[19](#)]

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent(s) default will be entered and the motion will be granted without oral argument for cause shown. The sale is approved. The trustee shall submit a proposed order. No appearance is necessary.

8. [15-14057](#)-B-7 CLAUDINA ESPUDO
PFT-1

CONTINUED OPPOSITION RE:
TRUSTEE'S MOTION TO DISMISS FOR
FAILURE TO APPEAR AT SEC.
341 (A) MEETING OF CREDITORS
11-23-15 [[11](#)]

THOMAS GILLIS/Atty. for dbt.
PETER FEAR/Atty. for mv.

This matter will be continued to February 10, 2016, at 9:30 a.m. If the debtor appears at her continued meeting of creditors and the trustee is satisfied that all documents have been provided, the trustee shall withdraw his motion.

In addition, the time prescribed in Rules 1017(e) (1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the Debtor(s) discharge or to move for dismissal of the case under Section 707(b) will be extended to 60 days after the conclusion of the meeting of creditors. The court will prepare and enter a civil minute order. No appearance is necessary.

9. [15-14369](#)-B-7 GUSTAVO MOJARRO AND MAYRA
BN-1 HERNANDEZ
THE GOLDEN 1 CREDIT UNION/MV
VALERIE PEO/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
1-13-16 [[15](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The debtor' default will be entered and the motion will be granted without oral argument for cause shown. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code 2923.5 to the extent that it applies. If the notice and motion requested a waiver of Federal Rules of Bankruptcy Procedure 4001(a) (3), that relief will be granted. Unless the court expressly orders otherwise, the proposed order shall not include any other relief. 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. No appearance is necessary.

10. [15-14478](#)-B-7 KYLEE DEAN
TMT-1

OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
12-22-15 [[18](#)]

No appearance is necessary. The debtor shall attend the meeting of creditors rescheduled for February 1, 2016 at 8:30 a.m. If the debtor fails to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

In addition, the time prescribed in Rules 1017(e) (1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the Debtor's discharge or to move for dismissal of the case under Section 707(b) will be extended to 60 days after the conclusion of the meeting of creditors. The court will prepare and enter a civil minute order. No appearance is necessary.

11. [14-14189](#)-B-7 LUKA YANG AND SHENG VANG
ASW-1
DEUTSCHE BANK NATIONAL TRUST
COMPANY/MV
LAYNE HAYDEN/Atty. for dbt.
DANIEL FUJIMOTO/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-23-15 [[32](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be denied as moot as to the debtor(s) because their discharge has been entered. The motion will be granted for cause shown as to the chapter 7 trustee. The automatic stay is terminated as it applies to the movant's right to enforce its remedies against the subject property under applicable nonbankruptcy law. The proposed order shall specifically describe the property or action to which the order relates. If the motion involves a foreclosure of real property in California, then the order shall also provide that the bankruptcy proceeding has been finalized for purposes of California Civil Code 2923.5. If the notice and motion requested a waiver of Federal Rule of Bankruptcy Procedure 4001(a) (3), that relief will be granted. Unless the court expressly orders otherwise, the proposed order shall not include any other relief. 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. No appearance is necessary.

12. [15-13492](#)-B-7 DANIEL MORELOS
JES-1

CONTINUED OPPOSITION RE:
TRUSTEE'S MOTION TO DISMISS FOR
FAILURE TO APPEAR AT SEC.
341 (A) MEETING OF CREDITORS
11-6-15 [[13](#)]

The trustee's opposition has been withdrawn. No appearance is necessary.

11:00 A.M.

1. [15-14479](#)-B-7 DANIEL BRUCE

REAFFIRMATION AGREEMENT WITH
CARMAX AUTO FINANCE
12-28-15 [[18](#)]

JEFF REICH/Atty. for dbt.

This hearing to review and approve a reaffirmation agreement will be dropped from calendar. No hearing or order is required. The form of the Reaffirmation Agreement complies with 11 U.S.C. §524(c) and 524(k), and it was signed by the debtor's attorney with the appropriate attestations. Pursuant to 11 U.S.C. §524(d), the court need not approve the agreement. Debtor's counsel shall notify the debtor that no appearance is necessary.

1:30 P.M.

1. [15-12502](#)-B-7 LOI LEE CONTINUED STATUS CONFERENCE RE:
[15-1118](#) COMPLAINT
WELLS FARGO BANK, N.A. V. LEE 10-2-15 [[1](#)]
AUSTIN NAGEL/Atty. for pl.
RESPONSIVE PLEADING

This matter will be dropped from calendar as moot. The record shows that the matter has been settled by stipulation of the parties and order of the court, and a judgment has already been entered in the proceeding. No appearance is necessary.

2. [15-13308](#)-B-7 WILLIAM BURNINGHAM STATUS CONFERENCE RE: COMPLAINT
[15-1142](#) 11-24-15 [[1](#)]
BURNINGHAM V. BURNINGHAM
MICHAEL GERMAIN/Atty. for pl.

The status conference will be dropped from calendar without a disposition. The record shows that the summons was issued on November 24, 2015, however it was not served on the debtor/defendant until December 8, 2015. Pursuant to FRBP 7004(e), the summons and complaint were required to be served by December 1, 2015. The plaintiff must request a reissued summons and timely serve the debtor/defendant within 30 days or the court will issue an OSC. No appearance is necessary.

3. [15-12115](#)-B-7 GUY DEBBAS STATUS CONFERENCE RE: COMPLAINT
[15-1141](#) 11-20-15 [[1](#)]
HAWKINS V. SYSCO CENTRAL
CALIFORNIA, INC.
ROBERT HAWKINS/Atty. for pl.
DISMISSED

This matter will be dropped from calendar without a disposition. The adversary proceeding has already been dismissed. No appearance is necessary.

4. [15-14017](#)-B-11 CLUB ONE CASINO, INC. STATUS CONFERENCE RE: COMPLAINT
[15-1146](#) 12-1-15 [[1](#)]
KMGI, INC. ET AL V. LONG ET AL
ORI KATZ/Atty. for pl.
RESCHEDULED BY ORDER TO
2/11/16 AT 9:30 A.M.

This matter has been rescheduled to February 11, 2016, at 9:30 a.m., by stipulation of the parties and prior order of the court.

5. [15-13426](#)-B-7 JESSE/TERESA DE LA CRUZ STATUS CONFERENCE RE: COMPLAINT
[15-1140](#) 11-19-15 [[1](#)]
DE LA CRUZ V. CAPITAL
COLLECTIONS LLC
TIMOTHY SPRINGER/Atty. for pl.

This matter will be dropped from calendar. The plaintiff has filed a notice of settlement and request for dismissal of the adversary proceeding. The court deems the plaintiff's request to be a notice of dismissal pursuant to FRCP 41(a)(1). The adversary proceeding is dismissed. No appearance is necessary.

6. [15-14440](#)-B-13 CESAR RODRIGUEZ STATUS CONFERENCE RE: COMPLAINT
[15-1144](#) 11-30-15 [[1](#)]
U.S. TRUSTEE V. RODRIGUEZ
GREGORY POWELL/Atty. for pl.

7. [09-60394](#)-B-13 DANNY/ESTHER SCHWANDT STATUS CONFERENCE RE: COMPLAINT
[15-1143](#) 11-24-15 [[1](#)]
SCHWANDT, SR. ET AL V.
SANTANDER CONSUMER USA INC.
GABRIEL WADDELL/Atty. for pl.