

**UNITED STATES BANKRUPTCY COURT**  
**Eastern District of California**  
**Honorable René Lastreto**  
**Hearing Date: Friday, May 13, 2016**  
**Place: U.S. Courthouse, 510 19<sup>th</sup> Street**  
**Bakersfield, 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.** UNITED

**9:00 A.M.**

1. [15-15004](#)-B-13 MARK/CAMELIA TEUTIMEZ  
MHM-2  
ROBERT WILLIAMS/Atty. for dbt.

OBJECTION TO CONFIRMATION OF  
PLAN BY TRUSTEE MICHAEL H.  
MEYER  
4-14-16 [[29](#)]

2. [15-14007](#)-B-13 CARA WEESE  
MHM-2  
MICHAEL MEYER/MV  
WILLIAM OLCOTT/Atty. for dbt.

MOTION TO DISMISS CASE  
3-4-16 [[33](#)]

**The trustee's motion has been withdrawn.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

3. [15-14809](#)-B-13 ARTURO SERRATO  
MHM-2  
MICHAEL MEYER/MV  
LAUREN RODE/Atty. for dbt.  
DISMISSED

MOTION TO DISMISS CASE  
3-31-16 [[38](#)]

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

4. [14-11111](#)-B-13 PHILLIP/MARNIE HAMILTON  
MHM-2  
MICHAEL MEYER/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
RESPONSIVE PLEADING

CONTINUED MOTION TO DISMISS  
CASE  
12-10-15 [[79](#)]

5. [14-11111](#)-B-13 PHILLIP/MARNIE HAMILTON CONTINUED MOTION TO MODIFY PLAN  
TCS-5 3-14-16 [[96](#)]  
PHILLIP HAMILTON/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
RESPONSIVE PLEADING

6. [15-14716](#)-B-13 GEORGE NUNEZ MOTION FOR COMPENSATION FOR  
PK-1 PATRICK KAVANAGH, DEBTORS  
ATTORNEY(S)  
4-7-16 [[30](#)]  
  
PATRICK KAVANAGH/Atty. for dbt.

**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.**

7. [16-10319](#)-B-13 MONIQUE BOOKOUT MOTION TO DISMISS CASE  
MHM-1 4-15-16 [[20](#)]  
MICHAEL MEYER/MV  
ROBERT WILLIAMS/Atty. for dbt.

**The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules and there is no opposition. The record shows that there has been unreasonable delay that is prejudicial to creditors including failure to provide the trustee with 2015 state and federal tax returns as required by 11 U.S.C. §521(e)(2)(A),(B). Accordingly, the respondent's default will be entered and the motion will be granted without oral argument. The case will be dismissed for cause shown. The court will prepare and enter a civil minute order. No appearance is necessary.**

8. [16-10020](#)-B-13 GERARDO RIOS OBJECTION TO CONFIRMATION OF  
BANK OF AMERICA, N.A./MV PLAN BY BANK OF AMERICA, N.A.  
KANE LEONARD/Atty. for mv. 4-8-16 [[40](#)]

**This objection will be overruled as moot. The court intends to dismiss the case on the trustee's unopposed motion at #9. No appearance is necessary.**

9. [16-10020](#)-B-13 GERARDO RIOS MOTION TO DISMISS CASE  
MHM-1 3-31-16 [[36](#)]  
MICHAEL MEYER/MV

**The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules and there is no opposition. The record shows that there is a material default in the chapter 13 plan payments that has not been cured. Accordingly, the respondent's default will be entered and the motion will be granted without oral argument. The case will be dismissed for cause shown. The court will prepare and enter a civil minute order. No appearance is necessary.**

10. [16-10320](#)-B-13 JAIME ALVARADO  
MHM-1  
MICHAEL MEYER/MV  
NEIL SCHWARTZ/Atty. for dbt.  
WITHDRAWN  
MOTION TO DISMISS CASE  
4-15-16 [[20](#)]

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

11. [16-10321](#)-B-13 PABLO/ELIZABETH GUZMAN  
MHM-1  
MICHAEL MEYER/MV  
NEIL SCHWARTZ/Atty. for dbt.  
WITHDRAWN  
MOTION TO DISMISS CASE  
4-15-16 [[28](#)]

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

12. [14-13922](#)-B-13 DAVID ARNONE  
MHM-4  
MICHAEL MEYER/MV  
ROBERT WILLIAMS/Atty. for dbt.  
RESPONSIVE PLEADING  
CONTINUED OBJECTION TO DEBTOR'S  
CLAIM OF EXEMPTIONS  
3-9-16 [[66](#)]

13. [14-13922](#)-B-13 DAVID ARNONE  
MHM-5  
MICHAEL MEYER/MV  
ROBERT WILLIAMS/Atty. for dbt.  
MOTION TO DISMISS CASE  
4-15-16 [[76](#)]

14. [15-12826](#)-B-13 JOE/TINA MARIE GRANILLO  
SJS-5  
JOE GRANILLO/MV  
MOTION FOR CLARIFICATION OF  
RULING ON DEBTORS' OBJECTION TO  
CLAIM OF PHILLIP GILLET -  
CLAIM 1-2 AND/OR MOTION FOR A  
REHEARING  
3-18-16 [[69](#)]  
SUSAN SALEHI/Atty. for dbt.

**The debtors' motion for clarification of the court's prior ruling on the debtor's objection to the claim of Phillip Gillet was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondent(s) default will be entered. The transcript of that hearing that has been filed in the case makes the court's ruling clear; the court ruled that Phillip Gillet's claim was to be paid by the chapter 13 trustee as an unsecured claim, without prejudice to the debtor's ability to file a timely claim objection. The court will enter a civil minute order. No appearance is necessary.**

15. [15-14827](#)-B-13 BRIAN HOVEN  
LKW-1

MOTION FOR COMPENSATION FOR  
LEONARD K. WELSH, DEBTORS  
ATTORNEY(S)  
4-8-16 [[32](#)]

LEONARD WELSH/Atty. for dbt.

**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.**

16. [15-14330](#)-B-13 JOSE/PAULA BUSTAMANTE  
BN-1  
THE GOLDEN 1 CREDIT UNION/MV  
D. GARDNER/Atty. for dbt.  
VALERIE PEO/Atty. for mv.

RESCHEDULED HEARING RE: MOTION  
FOR RELIEF FROM AUTOMATIC STAY  
1-21-16 [[46](#)]

**This matter has been continued to June 9, 2016, by stipulation of the parties and order of the court. No appearance is necessary.**

17. [15-14330](#)-B-13 JOSE/PAULA BUSTAMANTE  
DMG-4  
JOSE BUSTAMANTE/MV  
D. GARDNER/Atty. for dbt.

MOTION TO CONFIRM PLAN  
4-4-16 [[102](#)]

**This motion to confirm a chapter 13 plan will be deemed withdrawn. The debtors have filed a subsequent motion to confirm a plan, DMG-5. No appearance is necessary.**

18. [15-14330](#)-B-13 JOSE/PAULA BUSTAMANTE  
DMG-5  
JOSE BUSTAMANTE/MV  
D. GARDNER/Atty. for dbt.  
AMD NTC OF HEARING WITH NO  
ORDER TO CONTINUE

MOTION TO CONFIRM PLAN  
4-8-16 [[108](#)]

**This motion to confirm a chapter 13 plan has been rescheduled by order of the court to June 9, 2016, at 9:00 a.m. No appearance is necessary.**

19. [13-14435](#)-B-13 DAVID/ANGELEE MARTINEZ MOTION TO DISMISS CASE  
MHM-1 3-4-16 [[66](#)]  
MICHAEL MEYER/MV  
WILLIAM OLCOTT/Atty. for dbt.

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules and there is no opposition. The record shows that there is a material default in the chapter 13 plan payments that has not been cured. Accordingly, the respondent's default will be entered and the motion will be granted without oral argument. The case will be dismissed for cause shown. The court will prepare and enter a civil minute order. No appearance is necessary.

20. [16-10342](#)-B-13 MIGUEL RAMIREZ AND OBJECTION TO CONFIRMATION OF  
EAT-1 VERONICA GRANADOS PLAN BY WELLS FARGO BANK, N.A.  
WELLS FARGO BANK, N.A./MV 4-14-16 [[17](#)]  
ROBERT WILLIAMS/Atty. for dbt.  
DARLENE VIGIL/Atty. for mv.

This matter will be overruled as moot. The court intends to dismiss the case on the trustee's unopposed motion at #21. No appearance is necessary.

21. [16-10342](#)-B-13 MIGUEL RAMIREZ AND MOTION TO DISMISS CASE  
MHM-1 VERONICA GRANADOS 4-15-16 [[20](#)]  
MICHAEL MEYER/MV  
ROBERT WILLIAMS/Atty. for dbt.

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules and there is no opposition. The record shows that there has been unreasonable delay by the debtors that is prejudicial to creditors, including, failure to appear at the scheduled 341 Meeting of Creditors; failure to provide the Trustee with the following required documentation: pay advices for the six months prior to filing, and 2015 State and Federal Tax Returns, and failed to file a certificates of credit counseling. Accordingly, the respondents' default will be entered and the motion will be granted without oral argument. The case will be dismissed for cause shown. The court will prepare and enter a civil minute order. No appearance is necessary.

22. [15-12643](#)-B-13 REBECCA/MICHAEL HACKWORTH MOTION TO CONFIRM PLAN  
RSW-2 3-31-16 [[54](#)]  
REBECCA HACKWORTH/MV  
ROBERT WILLIAMS/Atty. for dbt.

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the respondents' default will be entered and the motion will be granted without oral argument for cause shown. The debtors shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

23. [16-10443](#)-B-13 ALYSSA SANCHEZ MOTION TO DISMISS CASE  
MHM-1 4-15-16 [[26](#)]  
MICHAEL MEYER/MV  
WILLIAM OLCOTT/Atty. for dbt.

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules and there is no opposition. The record shows that the debtor has failed to appear at her initial and continued §341 meeting of creditors. Accordingly, the respondent's default will be entered and the motion will be granted without oral argument. The case will be dismissed for cause shown. The court will prepare and enter a civil minute order. No appearance is necessary.

24. [16-10443](#)-B-13 ALYSSA SANCHEZ OBJECTION TO CONFIRMATION OF  
NMM-1 PLAN BY TREASURER/TAX COLLECTOR  
TREASURER/TAX COLLECTOR FOR FOR KERN COUNTY  
KERN COUNTY/MV 4-14-16 [[22](#)]  
WILLIAM OLCOTT/Atty. for dbt.  
NICOLE MISNER/Atty. for mv.

The objection will be overruled as moot. The court intends to dismiss the case on the trustee's unopposed motion at #23. No appearance is necessary.

25. [16-10344](#)-B-13 CHRISTOPHER/TINA GENEL MOTION TO DISMISS CASE  
MHM-1 4-15-16 [[18](#)]  
MICHAEL MEYER/MV  
ROBERT WILLIAMS/Atty. for dbt.  
WITHDRAWN

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

26. [15-12954](#)-B-13 MICHAEL HALL  
MHM-2  
MICHAEL MEYER/MV  
STEVEN WOLVEK/Atty. for dbt.  
MICHAEL MEYER/Atty. for mv.  
WITHDRAWN

MOTION TO RECONVERT CASE FROM  
CHAPTER 13 TO CHAPTER 7  
4-15-16 [[63](#)]

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

27. [15-12954](#)-B-13 MICHAEL HALL  
RP-2  
RANDELL PARKER/MV  
  
STEVEN WOLVEK/Atty. for dbt.

MOTION FOR COMPENSATION FOR  
RANDELL PARKER, CHAPTER 7  
TRUSTEE(S)  
4-5-16 [[54](#)]

**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.**

28. [15-14355](#)-B-13 JASON/DANELLE BLACK  
PK-1  
JASON BLACK/MV  
PATRICK KAVANAGH/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN  
3-21-16 [[37](#)]

**The Court will deny the motion to confirm the Plan. The debtors shall confirm a Plan on or before August 4, 2016 or the case will be dismissed on the Trustee's motion. The court will issue a Civil Minute Order. No appearance is necessary.**

**There is no factual dispute before the Court. Neither party has reserved the right to present testimony.**

**The issue raised by the trustee is the allowance of an "Additional Provision" in the form Chapter 13 Plan that provides "In the event of dismissal, any approved fees will be paid to the attorney for the debtor prior to payment by the debtor." The Chapter 13 trustee opposes the insertion of that provision in this case as it applies to a *post-confirmation* dismissal. The trustee concedes that if the case is dismissed *pre-confirmation*, 11 U.S.C. section 1326(a)(2) provides that allowed attorney's fees should be paid to the claimant.**

***Post-confirmation*, however, the law in the Ninth Circuit has not evolved since *Harris v. Viegelahan*, \_\_\_ U.S. \_\_\_, 135 S. Ct. 1829 (2015). While *Harris* involved a converted case and the construction of 11 U.S.C. section 348(e), the Supreme Court seems to rely on the absence of the Chapter 13 trustee's office upon a Chapter 13 terminating event. See also 11 U.S.C. section 349(b)(3).**



The prevailing Ninth Circuit authority which has not been overruled based on the court's review is *In re: Nash*, 765 F. 2d 1410,1413 (9<sup>th</sup> Cir., 1985) holding that dismissal effectively vacates the confirmed Plan. Since *Nash* has not been revisited in published binding authority, the Court is constrained to follow the Ninth Circuit's holding. Thus, the proposed "Additional Provision" is vague enough to include *post-confirmation* events and not in conformance with law. The Plan cannot be confirmed under 11 U.S.C. section 1325(a)(1).

The Court is mindful that the debtors have consented to the fees and executed the Plan. The debtors also concede that an assignment has not been executed. What the debtors and counsel agree to by contract, provided it is within the bounds of the law and is reasonable, is not before the Court.

As to the bar date, the first meeting of creditors in this case was four months ago. The debtors fell behind on payments and the court continued the confirmation date to March 3, 2016 to accommodate the debtors. A bar date over two months hence is reasonable given the posture of this case.

29. [11-11358](#)-B-13 MICHAEL DEMATTIA AND MOTION TO MODIFY PLAN  
VAG-5 CHANTAL BLANCHARD 4-4-16 [[78](#)]  
MICHAEL DEMATTIA/MV  
VINCENT GORSKI/Atty. for dbt.

30. [16-10168](#)-B-13 MOISES TURCIOS CONTINUED MOTION TO CONFIRM  
PK-2 PLAN  
MOISES TURCIOS/MV 2-25-16 [[23](#)]  
PATRICK KAVANAGH/Atty. for dbt.  
RESPONSIVE PLEADING  
WITHDRAWN,

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules and the trustee has withdrawn his opposition. Accordingly, the respondents' default will be entered and the motion will be granted without oral argument for cause shown. The debtors shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

31. [13-16184](#)-B-13 RICHARD/YUIKO TURNER MOTION TO INCUR DEBT  
PK-5 4-14-16 [[25](#)]  
RICHARD TURNER/MV  
PATRICK KAVANAGH/Atty. for dbt.  
RESPONSIVE PLEADING  
WITHDRAWN,

This matter was fully noticed in compliance with the Local Rules and the trustee has withdrawn his opposition. Accordingly, the motion will be granted without oral argument for cause shown. The debtors shall prepare an order that is approved by the chapter 13 trustee. No appearance is necessary.

32. [16-10687](#)-B-13 HEATHER LEMA  
DMG-1  
HEATHER LEMA/MV  
D. GARDNER/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN  
3-25-16 [[12](#)]

**This motion will be continued to July 7, 2016, at 9:00 a.m., on the Bakersfield calendar, to allow for the conclusion of the §341 meeting of creditors. No appearance is necessary.**

33. [16-10787](#)-B-13 ALBERTO/ANGELICA MORENO  
TOG-1  
ALBERTO MORENO/MV  
THOMAS GILLIS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF  
JPMORGAN CHASE BANK, N.A.  
4-7-16 [[9](#)]

**This matter will be continued to June 9, 2016, at 9:00 a.m. It appears that this matter has been resolved by stipulation of the parties, however a conforming order has not yet been submitted for approval. No appearance is necessary.**

34. [16-10288](#)-B-13 CLINT/JUDITH HARRISON  
RSW-1  
CLINT HARRISON/MV  
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO CONFIRM PLAN  
3-29-16 [[24](#)]

**The motion to confirm or modify a chapter 13 plan 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 debtors shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.**

35. [16-10388](#)-B-13 MANUEL/MARY AZA  
MHM-1  
MICHAEL MEYER/MV  
WILLIAM OLCOTT/Atty. for dbt.  
WITHDRAWN

MOTION TO DISMISS CASE  
4-15-16 [[22](#)]

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

36. [16-10189](#)-B-13 RUBEN ARAMBULA AND IRMA MOTION TO VALUE COLLATERAL OF  
TOG-2 GOMEZ BANK OF AMERICA, N.A.  
RUBEN ARAMBULA/MV 3-31-16 [[35](#)]  
THOMAS GILLIS/Atty. for dbt.

**This motion to value the collateral for a consensual lien against real property was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted for cause shown without oral argument. Based on the evidence offered in support of the motion, 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 debtors 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. If the chapter 13 plan has not been confirmed, then the order shall specifically state that it is not effective until confirmation of the plan. The debtors shall submit a proposed order consistent with this ruling. No appearance is necessary.**

*This ruling is only binding on the named respondent in the moving papers and any successor who takes an interest in the property after service of the motion.*

37. [13-14390](#)-B-13 SHIN/MICHIKO YOSHIKAWA MOTION TO SELL  
PK-5 4-7-16 [[87](#)]  
SHIN YOSHIKAWA/MV  
PATRICK KAVANAGH/Atty. for dbt.

**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 debtors shall submit a proposed order that has been approved by the chapter 13 trustee. No appearance is necessary.**

38. [13-14390](#)-B-13 SHIN/MICHIKO YOSHIKAWA MOTION TO SELL  
PK-6 4-7-16 [[91](#)]  
SHIN YOSHIKAWA/MV  
PATRICK KAVANAGH/Atty. for dbt.

**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 debtors shall submit a proposed order that has been approved by the chapter 13 trustee. No appearance is necessary.**

39. [16-10391](#)-B-13 MICHAEL PFEIFFER MOTION TO DISMISS CASE  
MHM-1 4-15-16 [[17](#)]  
MICHAEL MEYER/MV  
D. GARDNER/Atty. for dbt.  
WITHDRAWN

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

10:00 A.M.

1. [15-14901](#)-B-7 LEE BOWDEN MOTION TO SELL  
JMV-1 4-12-16 [[18](#)]  
JEFFREY VETTER/MV  
WILLIAM OLCOTT/Atty. for dbt.

**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 debtors shall submit a proposed order. No appearance is necessary.**

2. [13-16522](#)-B-7 SIGEL/JUANELL HOFFMAN MOTION TO AVOID LIEN OF WELLS  
KDG-3 FARGO BANK, N.A.  
SIGEL HOFFMAN/MV 4-13-16 [[28](#)]  
T. BELDEN/Atty. for dbt.

**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 debtors shall submit a proposed order. No appearance is necessary.**

3. [16-10925](#)-B-7 DANIEL/SHAWNA MUSICK MOTION FOR RELIEF FROM  
APN-1 AUTOMATIC STAY  
WELLS FARGO BANK, N.A./MV 4-12-16 [[10](#)]  
ROBERT WILLIAMS/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.

**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.**

4. [16-11031](#)-B-7 GILBERT/OLIVIA GARCIA MOTION TO AVOID LIEN OF RAMY &

LKW-1  
GILBERT GARCIA/MV  
LEONARD WELSH/Atty. for dbt.

ASSOCIATES, INC.  
4-1-16 [[9](#)]

**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.**

5. [15-14433](#)-B-7 ROBERT/PATRICIA SALAZAR MOTION TO AVOID LIEN OF ROY  
DMG-1 ROWE  
ROBERT SALAZAR/MV 4-14-16 [[21](#)]  
D. GARDNER/Atty. for dbt.

**This motion to avoid a judicial lien will be denied without prejudice. The debtors did not serve the holder of the judgment lien at the address listed for him on the abstract of judgment. Service on the creditor's attorney does not constitute service on the creditor.**

**In addition, the evidence does not show that the debtors possessed an interest in the subject property to which the judgment lien could have attached at the time the judgment lien was recorded. *Farrey v. Sanderfoot*, 111 S.Ct. 667 (1991). The 2010 abstract of judgment was mailed to an address that is not the same as the debtors' residence at the time they filed their petition. The court will prepare a minute order. No appearance is necessary.**

6. [15-14436](#)-B-7 DONNA SPELL MOTION TO AVOID LIEN OF FORD  
SMS-1 MOTOR CREDIT COMPANY LLC  
DONNA SPELL/MV 4-13-16 [[22](#)]  
STEVEN STANLEY/Atty. for dbt.

**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.**

7. [16-10743](#)-B-7 CHARLES/APRIL MERRITT  
JCW-1  
NATIONSTAR MORTGAGE LLC/MV  
WILLIAM EDWARDS/Atty. for dbt.  
JENNIFER WONG/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
4-6-16 [[16](#)]

**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.**

8. [16-11146](#)-B-7 JUSTIN/JACQUELINE  
TCS-1 ANDERSON  
AZAM ROSTAMI/MV

MOTION TO CONFIRM TERMINATION  
OR ABSENCE OF STAY AND/OR  
MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
4-14-16 [[16](#)]

JERRY LOWE/Atty. for dbt.  
NANCY KLEPAC/Atty. for mv.

9. [16-10655](#)-B-7 JAMES BUETOW  
JCW-1  
M&T BANK/MV  
BRUCE BOICE/Atty. for dbt.  
JENNIFER WONG/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
4-8-16 [[37](#)]

**This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The debtor(s) 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. [13-13062](#)-B-7 CECILY WATERMAN  
JMV-1  
JEFFREY VETTER/MV  
  
LEONARD WELSH/Atty. for dbt.  
LISA HOLDER/Atty. for mv.

MOTION FOR COMPENSATION FOR  
JEFFREY M. VETTER, CHAPTER 7  
TRUSTEE(S)  
4-13-16 [[125](#)]

11. [12-17371](#)-B-7 ISIDRO/MARIA GARIBAY  
RSW-3  
ISIDRO GARIBAY/MV  
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO AVOID LIEN OF  
FINANCIAL CREDIT NETWORK, INC.  
4-25-16 [[28](#)]

**Unless there is an appearance and opposition at the hearing, the court intends to enter the respondent's default and grant the motion without oral argument for cause shown. After the hearing, the moving party shall submit a proposed order.**

12. [12-17580](#)-B-7 XTECH INDUSTRIES, INC.  
MKK-2  
M. KLEIN/MV  
BENJAMIN SHEIN/Atty. for dbt.

MOTION FOR COMPENSATION FOR M.  
KATHLEEN KLEIN, ACCOUNTANT(S)  
9-23-14 [[94](#)]

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 applicant's fees and costs will be approved in a total amount of \$2,926.35. The reduction of the request by \$30 represents the fees incurred more than 30 days prior to the request for approval of employment without submission of evidence to support a *nunc pro tunc* order. The applicant shall submit a proposed order. No appearance is necessary.

13. [12-15487](#)-B-7 ANTHONY LEONIS  
RSW-1  
ANTHONY LEONIS/MV  
ROBERT WILLIAMS/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO AVOID LIEN OF JAMES  
CIECIORKA AND JEAN CIECIORKA  
3-21-16 [[215](#)]

The Court grants the motion to avoid the lien of James and Jean Cieciorca on 13800 Las Entradas, Bakersfield, CA. The debtor shall prepare the order which shall include an accurate legal description of the both the real property and the abstract of judgment and provide the order applies only to the property described in the order. No appearance is necessary.

Neither party has reserved the right to provide live testimony. There appears to be no factual dispute.

The debtor seeks to avoid the lien of an Abstract of Judgment recorded in Kern County California on May 18, 2012. The judgment is in the amount of \$371,612.50 in favor of the Cieciorcas. The property at issue was added to the Amended Schedule C and had been the subject of a stay relief motion in 2012. The property was subsequently abandoned by the Trustee. The amended Schedule C was filed and served on the mailing list on March 21, 2016 and there was no objection within 30 days. The Cieciorca's objection to this motion was filed April 29, 2016. The Court takes Judicial Notice under FRE 201 of the alleged value of the subject property in JP Morgan Chase's stay relief motion filed October 8, 2012 showing the property as being over encumbered by over \$72,000.00.

The Cieciorcas oppose the motion on the ground that the subject property was listed on the amended Schedule C as having "\$0.00" value. They argue that since the claimed exemption (the California "grubstake" available to debtors under CCP section 703.140) was used on other property, the debtor have no available exemption. Also, the Cieciorcas cite *In re: Berryhill*, 254 B.R. 242,244 (B.Ct. N.D. Ind. 2000) and other out of circuit authority for the proposition that claiming an exemption of \$0.00 is tantamount to claiming no exemption. The logic is that if the debtor is not entitled to an exemption in the absence of liens, the debtor may not claim an impairment of the exemption on property of no value to which a lien cannot attach.



While perhaps a logical position, the Ninth Circuit Bankruptcy Appellate Panel in *In re: Goswami*, states that it is possible to claim an exemption in such circumstances. See, *In re: Goswami*, 304 B.R. 386 (9th Cir., B.A.P., 2002). Thus the debtors here have met the elements stated by *In re: Morgan*, 149 B.R. 147, 151 (9th Cir., B.A.P., 1993): (1) They have claimed an exemption to which they would have been entitled under 11 U.S.C. section 522(b)-the California "grubstake." (2) the property was listed on the schedules and claimed exempt-the debtor's amended Schedule C. (3) The lien at issue impaired the claimed exemption -under *Goswami, supra*, it does. (4) The lien is a judicial lien-an abstract of judgment is such a lien.

14. [16-10992](#)-B-7 TROY/LAVONDA CARTER  
JHW-1  
TD AUTO FINANCE LLC/MV  
ROBERT WILLIAMS/Atty. for dbt.  
JENNIFER WANG/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
4-6-16 [[9](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The debtor(s) 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.

11:00 A.M.

1. [16-11205](#)-B-7 TINA SANCHEZ AMENDED PRO SE REAFFIRMATION AGREEMENT WITH CALIFORNIA REPUBLIC BANK  
5-2-16 [[24](#)]
  
2. [16-10289](#)-B-7 EDWARD JONES REAFFIRMATION AGREEMENT WITH PAN AMERICAN BANK  
3-16-16 [[13](#)]

PATRICK KAVANAGH/Atty. for dbt.

**The court intends to deny approval of this reaffirmation agreement. Both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship which has not been rebutted in the reaffirmation agreement. No appearance is necessary.**