

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Thursday, July 3, 2014
Place: U.S. Courthouse, 510 19th 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.

9:00 A.M.

1. [14-10609](#)-B-7 ARYA KHATIBI STATUS CONFERENCE RE: COMPLAINT
[14-1042](#) 4-15-14 [[1](#)]
BABICH V. KHATIBI
NONA BABICH/Atty. for pl.

This matter will be advanced and called with the respondent's motion to dismiss on July 2, 2014, at 3:30 p.m. No appearance is necessary on July 3, 2014.

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|----|--------------------------------------|--|---|
| 2. | <u>13-14026</u> -B-7 | R & S DENTAL STUDIO,
INC.
PARKER V. JACKSON, D.D.S
TRUDI MANFREDO/Atty. for pl. | STATUS CONFERENCE RE: AMENDED
COMPLAINT
6-19-14 [<u>7</u>] |
| 3. | <u>13-17157</u> -B-7 | LUIZ SOARES
<u>14-1017</u>
TRANSPORT FUNDING, LLC V.
SOARES
JENNIFER CRASTZ/Atty. for pl.
RESPONSIVE PLEADING | STATUS CONFERENCE RE: COMPLAINT
2-4-14 [<u>1</u>] |
| 4. | <u>13-17157</u> -B-7 | LUIZ SOARES
<u>14-1017</u>
TRANSPORT FUNDING, LLC V.
SOARES
JENNIFER CRASTZ/Atty. for mv. | CONTINUED MOTION FOR ENTRY OF
DEFAULT JUDGMENT
5-2-14 [<u>19</u>] |

9:30 A.M.

1. [12-15446](#)-B-7 M. DEAN GARDNER
[12-1167](#)
AJSD BAKERSFIELD, LLC V.
GARDNER
EDNA WENNING/Atty. for pl.
CONTINUED FINAL PRE-TRIAL
CONFERENCE RE: AMENDED
COMPLAINT
1-24-13 [[16](#)]

2. [12-15446](#)-B-7 M. DEAN GARDNER
[12-1167](#)
AJSD BAKERSFIELD, LLC V.
GARDNER
ORDER TO SHOW CAUSE RE:
DISMISSAL OF ADVERSARY
PROCEEDING
6-3-14 [[53](#)]

10:00 A.M.

1. [14-11203](#)-B-7 IBRAHIM SNOBAR AND HELEN MOTION TO CONVERT CASE FROM
RSW-1 AKROUSH CHAPTER 7 TO CHAPTER 13
IBRAHIM SNOBAR/MV 5-28-14 [[17](#)]
ROBERT WILLIAMS/Atty. for dbt.

2. [13-17828](#)-B-7 STELLA ESTRADA CONTINUED MOTION TO EXAMINE
PK-1 DEBTOR'S TRANSACTIONS WITH
STELLA ESTRADA/MV ATTORNEYS
3-31-14 [[16](#)]

PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING

It appears from the record that the matter has been settled. No appearance is necessary.

3. [14-12844](#)-B-7 NATALIE DANIELS WEBB MOTION TO COMPEL ABANDONMENT
PK-1 6-4-14 [[11](#)]
NATALIE DANIELS WEBB/MV
PATRICK KAVANAGH/Atty. for dbt.

4. [13-15845](#)-B-7 ELOY RODRIGUEZ AND ANGELA CONTINUED HEARING RE: MOTION TO
PK-2 VASS-RODRIGUEZ AVOID LIEN OF ALTAONE FEDERAL
ELOY RODRIGUEZ/MV CREDIT UNION
4-3-14 [[30](#)]

PATRICK KAVANAGH/Atty. for dbt.
PARTIAL WITHDRAWAL

The motion has been withdrawn as to the Helena Street/Upjohn Avenue Property. The motion has already been granted and the court has entered an order as to the Maria Court Property. No appearance is necessary.

5. [06-10856](#)-B-7 WARNER/PATRICIA HITCH CONTINUED MOTION TO AVOID LIEN
DMG-2 OF CALFIN HOLDINGS, LLC
WARNER HITCH/MV 4-29-14 [[24](#)]
D. GARDNER/Atty. for dbt.

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

6. [13-13163](#)-B-7 AMERICA QUISPE MOTION TO SELL
TGF-3 5-28-14 [[73](#)]
RANDELL PARKER/MV
VINCENT GORSKI/Atty. for mv.

7. [14-12572](#)-B-7 AMARYLLIS MOORE
LKW-1
AMARYLLIS MOORE/MV

LEONARD WELSH/Atty. for dbt.

MOTION FOR ORDER APPOINTING
TANA DEE WILLIAMS AS "NEXT
FRIEND" FOR DEBTOR
5-16-14 [[5](#)]

This matter will be continued to July 31, 2014, at 10:00 a.m., for submission of supplemental information. The court cannot determine whether appointment of Tana Dee Williams ("Williams") as the debtor's "next friend" is in the debtor's best interest, pursuant to FRCP 17(c), without additional evidence. Therefore, Williams shall serve on the U.S. Trustee and the chapter 7 trustee, and file, specific information as to the following:

1. Whether the debtor has a guardian appointed under state law;
2. Williams' financial history since the execution of the durable power of attorney by the debtor;
3. Williams' professional history since the execution of the durable power of attorney by the debtor;
4. A history detailing the transactions executed by Williams pursuant to the authority of the durable power of attorney;
5. An accounting of the credit card transactions, including dates that the accounts were opened, who opened the accounts, the dates that charges were incurred, and the products or services purchased.

It appears from the debtor's schedules and statement of financial affairs that she has been a resident of a care facility since April 2008, however approximately \$33,000 in general unsecured credit card debt have been incurred in her name. Since the debtor has resided in the care facility for the past six years, the court can infer that these debts were incurred after she became a resident there, yet the debtor's schedules I and J show that her income exceeds the costs of the care facility and her personal expenses. Therefore, the court requires the additional information to determine whether there is a conflict of interest between Williams and the debtor's bankruptcy estate. The court will prepare a minute order. No appearance is necessary.

8. [14-12572](#)-B-7 AMARYLLIS MOORE
LKW-2
AMARYLLIS MOORE/MV

MOTION FOR ORDER WAIVING
REQUIREMENT THAT DEBTOR
COMPLETE CREDIT COUNSELING
COURSE, DEBTOR EDUCATION
COURSE, AND ATTEND MEETING OF
CREDITORS
5-16-14 [[11](#)]

LEONARD WELSH/Atty. for dbt.

The court cannot rule on this motion until it rules on the motion to appoint a "next friend" for the debtor. Based thereon, this matter will be continued to July 31, 2014, at 10:00 a.m. No appearance is necessary.

9. [14-10881](#)-B-7 ELCIO/ALESSANDRA
FPS-1 CANCELLIER
ELCIO CANCELLIER/MV

MOTION TO AVOID LIEN OF CAPITAL
ONE BANK (USA) N.A. AND/OR
MOTION TO AVOID LIEN OF
CITIBANK (SOUTH DAKOTA), N.A.
5-27-14 [[13](#)]

STEVEN STANLEY/Atty. for dbt.

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

10. [14-10594](#)-B-7 LEOPOLDO/YESENIA VARGAS
UST-1
TRACY DAVIS/MV
GREGORY POWELL/Atty. for mv.

MOTION TO DISMISS CASE PURSUANT
TO 11 U.S.C. SECTION 707(B)
5-16-14 [[23](#)]

This matter was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument for cause shown. The case will be dismissed. The U.S. Trustee shall submit a proposed order. No appearance is necessary.

11. [12-18995](#)-B-7 LORIN/KYMBERLI SMALLEY
TGF-5
RANDELL PARKER/MV
MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH LORIN MONTGOMERY
SMALLEY AND KYMBERLI ANNE
SMALLEY
5-28-14 [[72](#)]

NEIL SCHWARTZ/Atty. for dbt.
VINCENT GORSKI/Atty. for mv.

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

12. [14-11786](#)-B-7 LUAN STEINBERG-COLE
JMV-1
JEFFREY VETTER/MV
PATRICK KAVANAGH/Atty. for dbt.
JEFFREY VETTER/Atty. for mv.
MOTION TO EMPLOY WATSON REALTY
AS BROKER(S)
6-23-14 [[14](#)]

13. [14-12967](#)-B-13 DAVID/SHEREE PIEPER
TCS-1
DAVID PIEPER/MV
NANCY KLEPAC/Atty. for dbt.
MOTION TO EXTEND AUTOMATIC STAY
6-26-14 [[14](#)]

10:30 A.M.

1. [14-11813](#)-B-7 LEESA WAGNER
MDE-1
CITIMORTGAGE, INC./MV
FRANK SAMPLES/Atty. for dbt.
MARK ESTLE/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-2-14 [[14](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. 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 Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 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.

2. [14-11825](#)-B-7 DAVID/ANNA LISA HERNANDEZ
CJO-1
GREEN TREE SERVICING LLC/MV
NEIL SCHWARTZ/Atty. for dbt.
CHRISTINA O/Atty. for mv.
GREEN TREE SERVICING LLC VS.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-30-14 [[9](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. 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 Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 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.

3. [12-17630](#)-B-7 JAVIER/MARIA CASTRO
RCO-1
US BANK NATIONAL
ASSOCIATION/MV
ROBERT WILLIAMS/Atty. for dbt.
KRISTI WELLS/Atty. for mv.
DISCHARGED, MOTION WITHDRAWN

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-14-14 [[60](#)]

The motion has been withdrawn. No appearance is necessary.

4. [14-11146](#)-B-7 BRUCE REED
JCW-1
BANK OF AMERICA, N.A./MV
CURTIS FLOYD/Atty. for dbt.
JENNIFER WONG/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-29-14 [[15](#)]

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 Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 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.

5. [13-13163](#)-B-7 AMERICA QUISPE
PD-1
WELLS FARGO BANK, N.A./MV
JONATHAN CAHILL/Atty. for mv.
DISCHARGED, RESPONSIVE
PLEADING

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-23-14 [[66](#)]

Based on the stipulation of the parties, this matter will be rescheduled to July 31, 2014, at 10:30 a.m., in Bakersfield. The court will enter a civil minute order. No appearance is necessary.

6. [14-11463](#)-B-7 CODY/ROCHELLE DAVIS
TJP-1
CALIFORNIA REPUBLIC BANK/MV
STEVEN STANLEY/Atty. for dbt.
THOMAS PRENOVOST/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-5-14 [[16](#)]

This motion for relief from the automatic stay will be denied as moot. The debtors are individuals. 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. No appearance is necessary.

7. [13-10066](#)-B-7 PATRICK LO
MBB-1
BANK OF AMERICA, N.A./MV
MARIA TAM/Atty. for dbt.
BRIAN TRAN/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-14-14 [[35](#)]

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 Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 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. [14-10574](#)-B-7 BERNABE GARCIA HERRERA MOTION FOR RELIEF FROM
PPR-1 AND ARELY GARCIA AUTOMATIC STAY
CAM VII/MV 5-14-14 [[19](#)]
BONNI MANTOVANI/Atty. for mv.
9. [13-18075](#)-B-7 DANIEL/MONIQUE BOHL MOTION FOR RELIEF FROM
JCW-1 AUTOMATIC STAY
NATIONSTAR MORTGAGE LLC/MV 5-19-14 [[37](#)]
LINDSAY JONES/Atty. for dbt.
JENNIFER WONG/Atty. for mv.

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. 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 Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 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. [14-12476](#)-B-7 JASON/DIANNA HAINES
JHW-1
GROW FINANCIAL FEDERAL CREDIT
UNION/MV
NEIL SCHWARTZ/Atty. for dbt.
JENNIFER WANG/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
5-23-14 [[12](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. 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 Cal. Civil Code § 2923.5. If the notice and motion requested a waiver of Rule 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. [14-11881](#)-B-7 KELLI VAN NEST
BMO-1
ALTAONE FEDERAL CREDIT
UNION/MV
ROBERT WILLIAMS/Atty. for dbt.
BRANDON ORMONDE/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-17-14 [[11](#)]

12. [14-11385](#)-B-7 SCOTT HALE
AKA-1
PEOPLE'S UNITED EQUIPMENT
FINANCE CORP./MV
VINCENT GORSKI/Atty. for dbt.
ANDREW ALPER/Atty. for mv.

AMENDED MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-9-14 [[29](#)]

11:00 A.M.

1. [14-10795](#)-B-7 JESUS/ROSA ESPINOZA

REAFFIRMATION AGREEMENT WITH
FORD MOTOR CREDIT COMPANY
5-30-14 [[15](#)]

NEIL SCHWARTZ/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(s) that no appearance is necessary.