

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Thursday, August 29, 2013
Place: 1300 18th Street, First Floor
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. [12-60305](#)-B-7 EMMETT BLANTON CONTINUED STATUS CONFERENCE RE:
[13-1033](#) AMENDED COMPLAINT
CHIOU V. BLANTON ET AL 7-11-13 [[21](#)]
N. MCCARTNEY/Atty. for pl.
RESPONSIVE PLEADING
2. [12-19125](#)-B-13 JOHN/BRENDA OWENS CONTINUED STATUS CONFERENCE RE:
[13-1018](#) COMPLAINT
AMERICAN EXPRESS CENTURION 2-11-13 [[1](#)]
BANK V. OWENS ET AL
JOHN O'DONNELL/Atty. for pl.
RESPONSIVE PLEADING
3. [12-19125](#)-B-13 JOHN/BRENDA OWENS CONTINUED MOTION TO COMPEL
[13-1018](#) JMO-1 AND/OR MOTION TO STRIKE
AMERICAN EXPRESS CENTURION 5-23-13 [[21](#)]
BANK V. OWENS ET AL
JOHN O'DONNELL/Atty. for mv.
RESPONSIVE PLEADING
4. [11-62436](#)-B-7 KEVIN/SUSAN MARTIN CONTINUED STATUS CONFERENCE RE:
[12-1131](#) AMENDED COMPLAINT
MARTIN ET AL V. IRS 1-18-13 [[21](#)]
5. [11-62436](#)-B-7 KEVIN/SUSAN MARTIN MOTION FOR SUMMARY JUDGMENT
[12-1131](#) US-1 7-30-13 [[40](#)]
MARTIN ET AL V. IRS
THOMAS ROHALL/Atty. for mv.
RESPONSIVE PLEADING
6. [13-11467](#)-B-7 JOSE ALCALA CRUZ AND LISA STATUS CONFERENCE RE: COMPLAINT
[13-1076](#) ALCALA 7-1-13 [[1](#)]
BRM RECOVERY SERVICES V.
ALCALA CRUZ, JR.
RICHARD SNYDER/Atty. for pl.

It appears the defendant(s) default has been entered. The status conference will be dropped from calendar and may be reset by any party on 10 days' notice. No appearance is necessary. The clerk of the court may close the adversary proceeding without notice in 60 days unless the adversary proceeding has been concluded or set for a further status conference within that time. Either party may request an extension of this time up to 30 days by ex parte application for cause. After the adversary proceeding has been closed, the parties will have to file an application to reopen the adversary proceeding if further action is required. The court will issue a civil minute order.

7. [12-17199](#)-B-7 GURSEV KAUR
[12-1188](#)
VETTER V. KAUR
RENE LASTRETO/Atty. for pl.
RESPONSIVE PLEADING

CONTINUED STATUS CONFERENCE RE:
AMENDED COMPLAINT
11-16-12 [[6](#)]

10:00 A.M.

1. [13-11600](#)-B-7 SEAN/ANNA MELLON MOTION TO SELL
TGF-2 8-6-13 [[38](#)]
RANDELL PARKER/MV
NEIL SCHWARTZ/Atty. for dbt.
VINCENT GORSKI/Atty. for mv.

2. [11-61111](#)-B-7 POLLY RAMOS CONTINUED MOTION TO CORRECT THE
CRS-3 LEGAL DESCRIPTION ON ORDER TO
POLLY RAMOS/MV AVOID LIEN OF KERN FEDERAL CU
7-1-13 [[45](#)]

CYNTHIA SCULLY/Atty. for dbt.
STIPULATION FILED

3. [13-14055](#)-B-7 ROBERT/SUE BACKER MOTION TO EXTEND DEADLINE TO
JLH-1 FILE A COMPLAINT OBJECTING TO
KERN FEDERAL CREDIT UNION/MV DISCHARGEABILITY OF A DEBT
8-6-13 [[28](#)]

LEONARD WELSH/Atty. for dbt.
JOSEPH HORSWILL/Atty. for mv.

4. [13-13163](#)-B-7 AMERICA QUISPE MOTION TO CONVERT CASE FROM
WIN-2 CHAPTER 7 TO CHAPTER 13
AMERICA QUISPE/MV 7-29-13 [[28](#)]
CRAIG STREED/Atty. for dbt.
RESPONSIVE PLEADING

5. [12-12466](#)-B-7 OSCAR/VICKY CRUZ MOTION FOR TURNOVER OF PROPERTY
TGF-2 7-21-13 [[41](#)]
RANDELL PARKER/MV
VINCENT GORSKI/Atty. for mv.

6. [13-12776](#)-B-7 ELOY/ANGELINA PEREZ MOTION TO AVOID LIEN OF MIDLAND
FPS-1 FUNDING LLC
ELOY PEREZ/MV 7-15-13 [[19](#)]
FRANK SAMPLES/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.

7. [13-12586](#)-B-7 JAMES BELL MOTION TO AVOID LIEN OF CC
FPS-1 CRUSHING CORPORATION OF NEVADA
JAMES BELL/MV 7-15-13 [[23](#)]
FRANK SAMPLES/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.

8. [13-12586](#)-B-7 JAMES BELL MOTION TO SELL
RP-1 7-30-13 [[30](#)]
RANDELL PARKER/MV
FRANK SAMPLES/Atty. for dbt.
RANDELL PARKER/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.

9. [13-12687](#)-B-7 EDUVINA CHACON MOTION TO AVOID LIEN OF ACCLAIM
FPS-1 CREDIT TECHNOLOGIES AND/OR
EDUVINA CHACON/MV MOTION TO AVOID LIEN OF RANGER
INSURANCE COMPANY
7-26-13 [[18](#)]
FRANK SAMPLES/Atty. for dbt.

This matter will be continued to October 3, 2013, at 10:00 a.m. The debtor shall file supplemental evidence to show that the debtor owned the subject property at the time the Ranger Insurance Co. lien attached in 2005. *Farrey v. Sanderfoot, 111 S.Ct. 667.* The court will prepare a minute order. No appearance is necessary.

10. [13-14595](#)-B-7 MARTIN/MARTINA FLORES MOTION TO COMPEL ABANDONMENT
VAG-1 8-8-13 [[12](#)]
MARTIN FLORES/MV
VINCENT GORSKI/Atty. for dbt.

10:30 A.M.

1. [13-12919](#)-B-7 GAIL MCCREANOR MOTION FOR RELIEF FROM
CJO-1 AUTOMATIC STAY
GREEN TREE SERVICING LLC/MV 7-25-13 [[12](#)]
LEONARD WELSH/Atty. for dbt.
CHRISTINA O/Atty. for mv.
DISCHARGED

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.

2. [13-13022](#)-B-7 RAYMOND/LAURA NOEL MOTION FOR RELIEF FROM
MBB-1 AUTOMATIC STAY
BANK OF AMERICA, N.A./MV 7-18-13 [[15](#)]
R. BELL/Atty. for dbt.
BRIAN TRAN/Atty. for mv.
DISCHARGED, MOTION WITHDRAWN

The matter has been withdrawn. No appearance is necessary.

3. [13-14043](#)-B-7 CARLA MOORE MOTION FOR RELIEF FROM
ASW-1 AUTOMATIC STAY
BANK OF AMERICA, N.A./MV 7-22-13 [[21](#)]
RICHARD DWYER/Atty. for dbt.
JOELY BUI/Atty. for mv.

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

4. [13-13286](#)-B-7 ALEXANDER CAMACHO
RCO-1
BANK OF AMERICA, N.A./MV
WILLIAM EDWARDS/Atty. for dbt.
KRISTI WELLS/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-8-13 [[13](#)]

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.

5. [12-18995](#)-B-7 LORIN/KYMBERLI SMALLEY
PD-1
WELLS FARGO BANK, N.A./MV
NEIL SCHWARTZ/Atty. for dbt.
JONATHAN CAHILL/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-12-13 [[25](#)]

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.

6. [13-11695](#)-B-7 SHERON SPAINHOWARD
MBB-1
BANK OF AMERICA, N.A./MV
R. BELL/Atty. for dbt.
MARK DOMEYER/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-5-13 [[13](#)]

This motion for relief from the automatic stay 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. No appearance is necessary.

7. [13-14896](#)-B-7 MARK/JUANITA TORRES
PK-1
JACK ARNOT/MV
JACOB EATON/Atty. for dbt.
PATRICK KAVANAGH/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
8-1-13 [[14](#)]

11:00 A.M.

1. [13-14055](#)-B-7 ROBERT/SUE BACKER REAFFIRMATION AGREEMENT WITH
KERN FEDERAL CREDIT UNION
7-24-13 [[16](#)]

LEONARD WELSH/Atty. for dbt.
STIPULATION FILED

This matter will be dropped from calendar. The debtors' counsel shall notify the client that no appearance is necessary. The debtor was represented by counsel during the course of negotiation of the reaffirmation agreement. The agreement is signed by the debtor's attorney. The agreement does not require a hearing.

2. [13-11467](#)-B-7 JOSE ALCALA CRUZ AND LISA CONTINUED REAFFIRMATION
ALCALA AGREEMENT WITH BMW BANK OF
NORTH AMERICA, INC.
5-24-13 [[15](#)]

NEIL SCHWARTZ/Atty. for dbt.

Based on supplemental evidence filed, the debtors' amended schedules I and J, the reaffirmation agreement will be approved for cause shown. Debtors' counsel shall notify the client that no appearance is necessary.