

**UNITED STATES BANKRUPTCY COURT**  
**Eastern District of California**  
**Honorable W. Richard Lee**  
**Hearing Date: Thursday, October 24, 2013**  
**Place: Department B – Courtroom #12**  
**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.

9:00 A.M.

1. [12-60054](#)-B-7 DWIGHT/NELLIE LONG  
RHT-4  
ROBERT HAWKINS/MV  
  
LAYNE HAYDEN/Atty. for dbt.  
ROBERT HAWKINS/Atty. for mv.  
  
CONTINUED MOTION TO SELL AND/OR  
MOTION TO PAY ORDINARY COSTS OF  
SALE AND REAL ESTATE  
COMMISSIONS  
9-17-13 [[60](#)]
2. [12-60054](#)-B-7 DWIGHT/NELLIE LONG  
RHT-5  
ROBERT HAWKINS/MV  
  
LAYNE HAYDEN/Atty. for dbt.  
ROBERT HAWKINS/Atty. for mv.  
  
CONTINUED MOTION TO SELL AND/OR  
MOTION TO PAY ORDINARY COSTS OF  
SALE AND REAL ESTATE  
COMMISSIONS  
9-17-13 [[66](#)]
3. [12-17458](#)-B-11 SOUTH LAKES DAIRY FARM,  
RAC-4 A CALIFORNIA GENERAL  
RONALD CLIFFORD/MV  
  
JACOB EATON/Atty. for dbt.  
RESPONSIVE PLEADING  
  
MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF BLAKELEY AND  
BLAKELEY LLP FOR RONALD A.  
CLIFFORD, CREDITOR COMM.  
ATY(S),  
9-26-13 [[456](#)]
4. [12-19873](#)-B-11 ROSENDO JAIME AND MARIA  
UST-2 DE JAIME  
AUGUST LANDIS/MV  
THOMAS GILLIS/Atty. for dbt.  
ROBIN TUBESING/Atty. for mv.  
RESPONSIVE PLEADING  
  
MOTION TO DISMISS CASE  
9-26-13 [[230](#)]

10:30 A.M.

1. [13-11123](#)-B-7 MARIO/RACHEL GUTIERREZ STATUS CONFERENCE RE: COMPLAINT  
[13-1090](#) 8-19-13 [[1](#)]  
SALVEN V. ORTIZ, JR.  
PETER FEAR/Atty. for pl.

**This matter will be continued to November 6, 2013, at 10:00 a.m., to be called with the trustee's motion to approve a compromise of this dispute. The court will prepare a minute order. No appearance is necessary.**

2. [13-12336](#)-B-7 BEVERLY RAINE STATUS CONFERENCE RE: COMPLAINT  
[13-1092](#) 8-29-13 [[1](#)]  
MOXLEY V. RAINE  
MICHAEL SMITH/Atty. for pl.

**This matter will be continued to November 26, 2013, at 9:00 a.m., to be called with the defendant's motion to dismiss. The court will prepare a minute order. No appearance is necessary.**

3. [05-10538](#)-B-7 RAY MCEDWARD STATUS CONFERENCE RE: COMPLAINT  
[13-1093](#) 8-29-13 [[1](#)]  
MCEDWARD ET AL V. CALIFORNIA  
STATE FRANCHISE TAX BOARD  
JOHN MAXEY/Atty. for pl.  
RESPONSIVE PLEADING

4. [13-11841](#)-B-7 MIGUEL BATISTA STATUS CONFERENCE RE: COMPLAINT  
[13-1091](#) 8-23-13 [[1](#)]  
U.S. TRUSTEE V. BATISTA  
ROBIN TUBESING/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 90 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.**

5. [13-11841](#)-B-7 MIGUEL BATISTA CONTINUED MOTION TO SURCHARGE  
TMT-3 DEBTOR'S EXEMPTION  
TRUDI MANFREDO/MV 7-9-13 [[27](#)]  
THOMAS GILLIS/Atty. for dbt.  
TRUDI MANFREDO/Atty. for mv.

**Based on the trustee's request, the debtor's default will be entered. The matter will be continued to November 26, 2013, at 9:00 a.m. for a prove-up hearing regarding damages. The court will enter a civil minute order. No appearance is necessary.**

6. [13-11841](#)-B-7 MIGUEL BATISTA CONTINUED MOTION FOR CONTEMPT  
TMT-4 AND/OR MOTION FOR SANCTIONS  
TRUDI MANFREDO/MV 8-9-13 [[65](#)]  
THOMAS GILLIS/Atty. for dbt.  
TRUDI MANFREDO/Atty. for mv.  
RESPONSIVE PLEADING

**This matter will be continued for a final hearing, regarding liability and damages, on November 26, 2013, at 9:00 a.m. The court will prepare a minute order. No appearance is necessary.**

7. [12-18845](#)-B-7 TIMOTHY ATMAJIAN CONTINUED STATUS CONFERENCE RE:  
[12-1187](#) AMENDED COMPLAINT  
ASHFORD ET AL V. ATMAJIAN, 8-12-13 [[49](#)]  
M.D.  
THORNTON DAVIDSON/Atty. for pl.

**Based on the parties' status reports, this matter will be continued to November 26, 2013, at 9:00 a.m., to be called with the plaintiff's motion for a protective order. The court will prepare a minute order. No appearance is necessary.**

8. [12-60054](#)-B-7 DWIGHT/NELLIE LONG STATUS CONFERENCE RE: AMENDED  
[13-1038](#) COMPLAINT  
GROSS MORTGAGE CORPORATION V. 9-17-13 [[45](#)]  
LONG  
HANNO POWELL/Atty. for pl.

**This matter will be continued to November 26, 2013, at 9:00 a.m., to be called with the defendant's motion to dismiss. The court will prepare a minute order. No appearance is necessary.**

9. [13-13454](#)-B-7 ROBERT/CARRI WARREN STATUS CONFERENCE RE: COMPLAINT  
[13-1089](#) 8-19-13 [[1](#)]  
GEORGE V. WARREN  
RUSSELL REYNOLDS/Atty. for pl.  
RESPONSIVE PLEADING

10. [13-12860](#)-B-7 DANNY/PATRICIA MCCLANAHAN RESCHEDULED STATUS CONFERENCE  
[13-1052](#) RE: AMENDED COMPLAINT  
NATIONAL COMMERCIAL RECOVERY, 8-22-13 [[23](#)]  
INC. V. MCCLANAHAN  
GLENN BESNYL/Atty. for pl.  
RESPONSIVE PLEADING
11. [13-12860](#)-B-7 DANNY/PATRICIA MCCLANAHAN MOTION FOR SUMMARY JUDGMENT  
[13-1052](#) MAZ-2 10-8-13 [[33](#)]  
NATIONAL COMMERCIAL RECOVERY,  
INC. V. MCCLANAHAN  
MARK ZIMMERMAN/Atty. for mv.  
RESPONSIVE PLEADING

**1:30 P.M.**

1. [11-10200](#)-B-13 WARREN/MICHELLE BOND MOTION TO MODIFY PLAN  
TCS-2 9-13-13 [[83](#)]  
WARREN BOND/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
RESPONSIVE PLEADING
  
2. [13-15410](#)-B-13 GREGORY/ROSA MOORE OBJECTION TO CONFIRMATION OF  
PPR-1 PLAN BY BANK OF AMERICA, N.A.  
BANK OF AMERICA, N.A./MV 10-1-13 [[34](#)]  
DONNY BRAND/Atty. for dbt.  
MELISSA VERMILLION/Atty. for mv.

**This matter will be continued to November 13, 2013, at 1:30 p.m. The trustee has not yet concluded the meeting of creditors. The time for the trustee to object to the plan has been extended by court order.**

**It is further ordered that the objecting creditor shall file its proof of claim at least seven days before the continued hearing if it wants the court to consider this objection. The court will prepare a civil minute order. No appearance is necessary.**

3. [12-10016](#)-B-13 WILHELMENIA JONES MOTION TO MODIFY PLAN  
MNE-2 9-5-13 [[45](#)]  
WILHELMENIA JONES/MV  
M. ENMARK/Atty. for dbt.  
RESPONSIVE PLEADING

4. [13-15319](#)-B-13 ROBERT MILLS  
RWR-1  
TULARE COUNTY TAX COLLECTOR/MV  
RUSSELL REYNOLDS/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
9-18-13 [[22](#)]

**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. [13-14320](#)-B-13 MICHAEL VIVEROS  
TCS-1  
MICHAEL VIVEROS/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
DISMISSED 10/3/13

MOTION TO VACATE DISMISSAL OF  
CASE  
10-10-13 [[35](#)]

6. [13-14320](#)-B-13 MICHAEL VIVEROS  
TCS-1  
MICHAEL VIVEROS/MV  
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO VACATE DISMISSAL OF  
CASE  
10-10-13 [[39](#)]

**This matter appears to be a duplicate of the motion above and will be dropped from the calendar.**

7. [13-15638](#)-B-13 ARMANDO GOMEZ AND AURORA MOTION TO VALUE COLLATERAL OF  
TOG-1 GUEVARA BANK OF AMERICA, N.A.  
ARMANDO GOMEZ/MV 9-20-13 [[15](#)]  
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 debtor(s) 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. *Unless the chapter 13 plan has been confirmed, then the order shall specifically state that it is not effective until confirmation of the plan.* The debtor(s) 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.***

8. [13-15344](#)-B-13 ROBERT BRAMBILA AND NIDIA OBJECTION TO CONFIRMATION OF  
MDE-1 CASILLAS DE BRAMBILA PLAN BY WELLS FARGO BANK, N.A.  
WELLS FARGO BANK, N.A./MV 9-26-13 [[18](#)]  
KARNEY MEKHITARIAN/Atty. for dbt.  
MARK ESTLE/Atty. for mv.

**This objection to confirmation of the chapter 13 plan will be overruled without prejudice. The debtor(s) has (have) filed and set for hearing a modified plan. The plan that this objection relates to is deemed withdrawn. No appearance is necessary.**

9. [13-15548](#)-B-13 LISA MILLER MOTION TO CONFIRM PLAN  
JRL-1 9-10-13 [[19](#)]  
LISA MILLER/MV  
JERRY LOWE/Atty. for dbt.  
RESPONSIVE PLEADING

10. [13-16653](#)-B-13 MARCUS CESENA MOTION TO EXTEND AUTOMATIC STAY  
SL-1 10-14-13 [[9](#)]  
MARCUS CESENA/MV  
STEPHEN LABIAK/Atty. for dbt.

11. [13-15363](#)-B-13 STEVEN/KATHERINE JANTZ OBJECTION TO CONFIRMATION OF  
PPR-1 PLAN BY THE BANK OF NEW YORK  
THE BANK OF NEW YORK MELLON/MV MELLON  
10-1-13 [[32](#)]  
WILLIAM COLLIER/Atty. for dbt.  
CASSANDRA RICHEY/Atty. for mv.  
RESPONSIVE PLEADING

12. [13-16478](#)-B-13 LYNETTE QUINTO MOTION TO EXTEND AUTOMATIC STAY  
JDM-1 10-10-13 [[8](#)]  
LYNETTE QUINTO/MV  
JAMES MILLER/Atty. for dbt.
13. [11-10682](#)-B-13 FRANCES/RICKY PASLEY MOTION TO REFINANCE  
MNE-5 9-11-13 [[94](#)]  
FRANCES PASLEY/MV  
M. ENMARK/Atty. for dbt.
14. [13-14183](#)-B-13 KATHERINE SAMPSON MOTION FOR COMPENSATION BY THE  
BCS-1 LAW OFFICE OF SHEIN LAW GROUP,  
BENJAMIN SHEIN/MV PC FOR BENJAMIN C. SHEIN,  
DEBTOR'S ATTORNEY(S),  
9-25-13 [[19](#)]  
BENJAMIN SHEIN/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.**

15. [13-14188](#)-B-13 VICENTE GUERRERO AND MOTION TO CONFIRM PLAN  
JMI-1 BIBIANA LOPEZ-BUSTAMANTE 8-19-13 [[27](#)]  
VICENTE GUERRERO/MV  
J. IRIGOYEN/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. The motion will be granted without oral argument for cause shown. The debtor(s) 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.**

16. [13-14188](#)-B-13 VICENTE GUERRERO AND MOTION TO VALUE COLLATERAL OF  
JMI-1 BIBIANA LOPEZ-BUSTAMANTE BANK OF AMERICA, N.A.  
VICENTE GUERRERO/MV 8-19-13 [[32](#)]  
J. IRIGOYEN/Atty. for dbt.

**This matter will be continued to November 13, 2013, at 1:30 p.m. as a preliminary hearing. The motion needs to be renoticed and properly served on the respondent's counsel pursuant to the notice of appearance and request for notice filed on July 16, 2013. The court will prepare a minute order. No appearance is necessary.**

17. [13-14789](#)-B-13 JOEL GATICA AND EMELIA  
TOG-3 SANCHEZ  
JOEL GATICA/MV  
THOMAS GILLIS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF  
OCWEN LOAN SERVICING, LLC.  
9-20-13 [[32](#)]

**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 debtor(s) 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. *Unless the chapter 13 plan has been confirmed, then the order shall specifically state that it is not effective until confirmation of the plan.* The debtor(s) 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.***

18. [13-16636](#)-B-13 SOLOMON OLIVAS  
SL-1  
SOLOMON OLIVAS/MV  
SCOTT LYONS/Atty. for dbt.

MOTION TO EXTEND AUTOMATIC STAY  
10-16-13 [[8](#)]

2:00 P.M.

1. [13-15319](#)-B-13 ROBERT MILLS  
MHM-1  
MICHAEL MEYER/MV

MOTION TO DISMISS CASE FOR  
UNREASONABLE DELAY THAT IS  
PREJUDICIAL TO CREDITORS AND/OR  
MOTION TO DISMISS CASE FOR  
FAILURE TO MAKE PLAN PAYMENTS ,  
MOTION TO DISMISS CASE  
10-3-13 [[36](#)]