

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Thursday, November 6, 2014
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.

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.

9:00 A.M.

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|----|--------------------------------|--|--|
| 1. | 14-13949 -B-11 | FAREED SAPHIEH
GCL-1
SEACOAST COMMERCE BANK/MV
PETER FEAR/Atty. for dbt.
GEORGE LAZAR/Atty. for mv.
RESPONSIVE PLEADING | MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-9-14 [45] |
| 2. | 11-10376 -B-11 | ROBERT/NEVA GAYLE IEST
WW-29
ROBERT IEST/MV
RILEY WALTER/Atty. for dbt. | MOTION FOR ENTRY OF DISCHARGE
AND/OR MOTION FOR FINAL DECREE
10-8-14 [561] |

This matter will be continued to November 25, 2014, at 9:00 a.m., for additional evidence and briefing. The motion states that the plan has been substantially consummated, that some of the unsecured claims have been paid "as agreed" and that some of the secured claims are still receiving payments. There is no evidence that any unsecured creditors have agreed to less than full payment. The first amended plan states at paragraph 11.2 that the debtors may apply for a discharge "upon completion of the payments called for by the plan." The consummation order states at paragraph 13 that the debtors may move for entry of a final decree "upon consummation of the plan by completing the distributions required by the plan." The bankruptcy code provides in section 1141(d)(5)(A) that individual debtors may receive a chapter 11 discharge "on completion of all payments under the plan." Based on the evidence presented in support of the motion, it is not clear that the granting of a discharge and final decree at this time is appropriate. The court will prepare a minute order. No appearance is necessary.

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| 3. | <u>14-10588</u> -B-11 | J & D WILSON AND SONS
KDG-22 DAIRY
FRAZER, LLP/MV
JACOB EATON/Atty. for dbt.
RESPONSIVE PLEADING | MOTION FOR COMPENSATION FOR
FRAZER, LLP, ACCOUNTANT(S).
10-16-14 [<u>363</u>] |
| 4. | <u>14-10588</u> -B-11 | J & D WILSON AND SONS
KDG-23 DAIRY
GLASSRATNER ADVISORY & CAPITAL
GROUP, LLC/MV
JACOB EATON/Atty. for dbt.
RESPONSIVE PLEADING | MOTION FOR COMPENSATION FOR
GLASSRATNER ADVISORY & CAPITAL
GROUP, LLC, CONSULTANT(S).
10-16-14 [<u>349</u>] |

5. [14-10588](#)-B-11 J & D WILSON AND SONS
KDG-24 DAIRY

MOTION FOR COMPENSATION FOR
JACOB L. EATON, DEBTOR'S
ATTORNEY(S).
10-16-14 [[356](#)]

JACOB EATON/Atty. for dbt.
RESPONSIVE PLEADING

6. [11-15697](#)-B-11 REAL WILSON ENTERPRISES,
HAR-7 INC.

CONTINUED AMENDED DISCLOSURE
STATEMENT
6-25-14 [[601](#)]

HILTON RYDER/Atty. for dbt.

Based on the debtor's status report, it appears that the debtor is not yet in a position to move forward with approval of the disclosure statement and confirmation of the plan. This is the fourth hearing that has been scheduled waiting for the debtor to resolve various issues and close an escrow for the sale of its business. If the business escrow actually closes before November 6, 2014, the debtor's counsel may appear and the court will set this matter for a final hearing. If the escrow has not closed by November 6, 2014, then the court intends to drop this matter from calendar. After the escrow closes, this matter may be reset for a final hearing, on 14 days' notice, in either Fresno (on the Fresno chapter 11 self-set calendar), or in Bakersfield (at 9:00 a.m.). The court will enter a civil minute order. No appearance is necessary unless the escrow has closed.

10:30 A.M.

1. [14-12536](#)-B-7 THOMAS CUTLER STATUS CONFERENCE RE: COMPLAINT
[14-1109](#)
HAWKINS V. CUTLER
TRUDI MANFREDO/Atty. for pl.

It appears from the plaintiff's status report that this adversary proceeding has been settled. 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.

2. [14-11940](#)-B-7 JOHN HADDEN CONTINUED STATUS CONFERENCE RE:
[14-1072](#) COMPLAINT
U.S. TRUSTEE V. HADDEN 7-22-14 [[1](#)]
ROBIN TUBESING/Atty. for pl.
RESPONSIVE PLEADING

3. [12-17458](#)-B-11 SOUTH LAKES DAIRY FARM, RESCHEDULED STATUS CONFERENCE
[14-1093](#) A CALIFORNIA GENERAL RE: COMPLAINT
 SOUTH LAKES DAIRY FARM V. CAL 8-28-14 [[1](#)]
 BY-PRODUCTS
 MICHAEL WILHELM/Atty. for pl.

This matter will be rescheduled to November 25, 2014, at 10:00 a.m., to track with the other adversary proceedings in the same case. No appearance is necessary.

4. [14-12872](#)-B-13 JOE MOYA RESCHEDULED STATUS CONFERENCE
[14-1083](#) RE: COMPLAINT
MOYA V. MOYA, SR. 8-11-14 [[1](#)]
HAGOP BEDOYAN/Atty. for pl.
RESPONSIVE PLEADING

1:30 P.M.

1. [14-15115](#)-B-13 ALFONSO JURADO GONZALES SL-1
ALFONSO JURADO GONZALES/MV
SCOTT LYONS/Atty. for dbt. MOTION TO EXTEND AUTOMATIC STAY
10-27-14 [[8](#)]
2. [10-63931](#)-B-13 HECTOR/MARIA MEDRANO TOG-3
HECTOR MEDRANO/MV
THOMAS GILLIS/Atty. for dbt. MOTION TO MODIFY PLAN
9-24-14 [[45](#)]

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.

3. [14-14155](#)-B-13 LILIANA MENDEZ PPR-1
NATIONSTAR MORTGAGE LLC/MV
CASSANDRA RICHEY/Atty. for mv.
CASE DISMISSED OBJECTION TO CONFIRMATION OF
PLAN BY NATIONSTAR MORTGAGE LLC
10-6-14 [[30](#)]

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

4. [13-12058](#)-B-13 KEITH/RUSPONIZA DAVIS BCS-3
BENJAMIN SHEIN/Atty. for dbt. MOTION FOR COMPENSATION FOR
BENJAMIN C. SHEIN, DEBTOR'S
ATTORNEY(S) .
9-25-14 [[41](#)]

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

5. [14-14061](#)-B-13 EPIFANIO FLORES JCW-1
THE BANK OF NEW YORK MELLON/MV
THOMAS GILLIS/Atty. for dbt.
JENNIFER WONG/Atty. for mv. OBJECTION TO CONFIRMATION OF
PLAN BY THE BANK OF NEW YORK
MELLON
10-2-14 [[15](#)]

Based on the debtor's statement of non-opposition, the objection will be sustained without oral argument. Confirmation of the plan will be denied. No appearance is necessary.

6. [14-12967](#)-B-13 DAVID/SHEREE PIEPER
TCS-2
DAVID PIEPER/MV
NANCY KLEPAC/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
WELLS FARGO BANK, N.A.
10-3-14 [[45](#)]

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.

7. [11-12668](#)-B-13 ALVINA FISCHER
MHM-3
MICHAEL MEYER/MV

MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
11-21-13 [[94](#)]

NANCY KLEPAC/Atty. for dbt.
RESPONSIVE PLEADING

8. [10-10969](#)-B-13 JEFFERY/MONIQUE DOWNS
TCS-8
JEFFERY DOWNS/MV
TIMOTHY SPRINGER/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO SELL
10-16-14 [[86](#)]

9. [14-14972](#)-B-13 LUIS/KELLIE LUJAN
PLG-1
LUIS LUJAN/MV
RABIN POURNAZARIAN/Atty. for dbt.

MOTION TO EXTEND AUTOMATIC STAY
10-15-14 [[11](#)]

10. [11-62984](#)-B-13 RAMSES/MAYRA GOMEZ
SL-6
RAMSES GOMEZ/MV
SCOTT LYONS/Atty. for dbt.

MOTION TO APPROVE LOAN
MODIFICATION
10-15-14 [[93](#)]

11. [09-10890](#)-B-13 WALTER/SHARON WEBB
DRJ-3
WALTER WEBB/MV
DAVID JENKINS/Atty. for dbt.

MOTION TO AVOID LIEN OF CHASE
BANK USA, NA
10-16-14 [[47](#)]

12. [09-10890](#)-B-13 WALTER/SHARON WEBB
DRJ-4
WALTER WEBB/MV
DAVID JENKINS/Atty. for dbt.

MOTION TO AVOID LIEN OF
AMERICAN EXPRESS CENTURION BANK
10-16-14 [[51](#)]

13. [14-15028](#)-B-13 GLENN BAILES
FJG-1
GLENN BAILES/MV
F. GIST/Atty. for dbt.

MOTION TO EXTEND AUTOMATIC STAY
10-30-14 [[19](#)]

14. [12-12945](#)-B-7 STEVEN AYLER
PWG-10
STEVEN AYLER/MV

CONTINUED MOTION TO MODIFY,
RECONSIDER AND/OR CLARIFY OR
FOR OTHER RELIEF FROM THE ORDER
FOR RELIEF FROM STAY
10-10-14 [[265](#)]

PHILLIP GILLET/Atty. for dbt.