

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Wednesday, November 13, 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.

10:00 A.M.

1. [13-15422](#)-B-7 GLORIA PARTIDA OPPOSITION RE: TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO APPEAR AT SEC. 341(A) MEETING OF CREDITORS
10-8-13 [[14](#)]
2. [11-16825](#)-B-7 CRISPIN/CATALINA REYES MOTION TO AVOID LIEN OF HSBC BANK NEVADA, N.A.
JRL-2
CRISPIN REYES/MV
JOEL WINTER/Atty. for dbt.
10-29-13 [[34](#)]
3. [13-15632](#)-B-7 STACY SMITH OBJECTION TO DEBTOR'S CLAIM OF EXEMPTIONS
JES-1
JAMES SALVEN/MV
JAMES SALVEN/Atty. for mv.
10-1-13 [[20](#)]

The court intends to overrule the objection to exemptions. The spousal waiver required by CCP § 703.140(a)(2) has been filed. No further relief appears to be necessary. No appearance is necessary.

4. [13-16432](#)-B-7 PATRICK/MARGARET BOWMAN NOTICE OF INTENT TO DISMISS CASE
PLF-2
PETER FEAR/Atty. for dbt.
9-30-13 [[3](#)]

This matter will be dropped from calendar. No appearance is necessary. The clerk's notice of intent to dismiss was replaced by this court's order dated October 15, 2013. The case will not be dismissed pursuant to the notice of intent.

5. [13-16155](#)-B-7 MICHAEL WEILERT AND MOTION TO CONSOLIDATE LEAD CASE
PLF-2 GENEVIEVE DE MONTREMARE
JAMES SALVEN/MV
RILEY WALTER/Atty. for dbt.
PETER FEAR/Atty. for mv.
13-16155 WITH 13-16156
10-30-13 [[59](#)]
6. [13-15358](#)-B-7 JOSEPH GARAY CONTINUED MOTION TO DISMISS CASE
JES-1
JAMES SALVEN/MV
GREG BLEVINS/Atty. for dbt.
JAMES SALVEN/Atty. for mv.
RESPONSIVE PLEADING
9-25-13 [[9](#)]

The motion to dismiss will be denied and the continued hearing will be dropped from calendar. No appearance is necessary. The debtor's counsel has complied with the court's civil minute order dated October 23, 2013.

7. [13-16364](#)-B-7 MARTHA ACEVES
PFT-1
PETER FEAR/MV
JANINE ESQUIVEL/Atty. for dbt.
PETER FEAR/Atty. for mv.

MOTION FOR ORDER REQUIRING
DEBTOR TO SHUT DOWN BUSINESS
10-11-13 [[15](#)]

This matter will be continued to November 26, 2013, at 10:00 a.m., to be heard with the debtor's motion to abandon the same assets. The trustee has concluded the meeting of creditors and has filed a report of no assets. The court will prepare a minute order. No appearance is necessary.

8. [13-12173](#)-B-7 JESSIE/LORETTA FULLER
JES-3
JAMES SALVEN/MV
ADRIAN WILLIAMS/Atty. for dbt.
JAMES SALVEN/Atty. for mv.

MOTION TO SELL
10-14-13 [[27](#)]

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.

10:30 A.M.

1. [13-15554](#)-B-7 RICHARD/KAYING ELMER MOTION FOR RELIEF FROM
TVL-1 AUTOMATIC STAY
LANDVALUE 77, LLC/MV 10-14-13 [[22](#)]
RICHARD WHEELER/Atty. for dbt.
TIMOTHY LOGOLUSO/Atty. for mv.

The motion will be denied without prejudice. The motion was not served on the debtors. No appearance is necessary.

2. [13-15987](#)-B-7 FRED/MARILYNN AINSWORTH MOTION FOR RELIEF FROM
RWR-1 AUTOMATIC STAY
WELLS FARGO BANK, NATIONAL 10-11-13 [[14](#)]
ASSOCIATION/MV
RUSSELL REYNOLDS/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.

3. [13-16410](#)-B-7 DAVID EVANS CONTINUED MOTION FOR RELIEF
CB-1 FROM AUTOMATIC STAY
FAIR HOUSING COUNCIL OF 9-29-13 [[6](#)]
CENTRAL CALIFORNIA, INC./MV
REYNALDO PULIDO/Atty. for dbt.
CHRISTOPHER BRANCART/Atty. for mv.
RESPONSIVE PLEADING

Based on the parties' joint request for a continuance, this matter will be continued to November 26, 2013, at 10:30 a.m. The parties shall file a joint status report regarding the District Court litigation prior to the continued hearing. Except as previously modified, the automatic stay shall remain in effect until the court issues a ruling in this matter. The court will prepare a minute order. No appearance is necessary.

11:00 A.M.

1. [13-14934](#)-B-7 JONATHAN/KRISTI STANLEY REAFFIRMATION AGREEMENT WITH
SANTANDER CONSUMER USA INC.
10-19-13 [[32](#)]

ALBERT GARCIA/Atty. for dbt.

This matter will be dropped from calendar. No appearance is necessary. The reaffirmation agreement is not signed by the creditor and is therefore not binding on the debtors. The movant will have 14 days to file a properly executed agreement.

2. [13-15442](#)-B-7 DENNIS/ROSALINDA LUJAN PRO SE REAFFIRMATION AGREEMENT
WITH ALLY FINANCIAL
10-22-13 [[19](#)]
3. [13-16192](#)-B-7 JOANN ADAME PRO SE REAFFIRMATION AGREEMENT
WITH MERCED SCHOOL EMPLOYEES
FCU
10-25-13 [[11](#)]

1:30 P.M.

1. [13-15300](#)-B-13 VICENTE BORREGO MOTION TO VALUE COLLATERAL OF
DRJ-3 HC PROCESSING CENTER
VICENTE BORREGO/MV 9-30-13 [[32](#)]
DAVID JENKINS/Atty. for dbt.
CASE DISMISSED

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

2. [13-15300](#)-B-13 VICENTE BORREGO MOTION TO CONFIRM PLAN
DRJ-4 9-30-13 [[26](#)]
VICENTE BORREGO/MV
DAVID JENKINS/Atty. for dbt.
CASE DISMISSED

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

3. [13-15006](#)-B-13 EMMANUEL XIONG AND CHAO MOTION TO CONFIRM PLAN
MMM-1 VANG 9-23-13 [[30](#)]
EMMANUEL XIONG/MV
MOHAMMAD MOKARRAM/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.

4. [13-15008](#)-B-13 RICHARD/TANYA GARCIA MOTION TO CONFIRM PLAN
ASW-2 9-23-13 [[35](#)]
RICHARD GARCIA/MV
ADRIAN WILLIAMS/Atty. for dbt.

The motion will be denied without prejudice. The moving papers do not include an appropriate docket control number as required by Local Rule 9014-1(c). Docket Control Number ASW-2 has already been used on another matter.

In addition, the modified plan provides for a \$0 valuation of the collateral held by First National Bank of Omaha. The evidence offered in support of that ruling does not support the relief requested. See the predisposition below. No appearance is necessary.

5. [13-15008](#)-B-13 RICHARD/TANYA GARCIA MOTION TO VALUE COLLATERAL OF
ASW-4 FIRST NATIONAL BANK OF OMAHA
RICHARD GARCIA/MV 10-2-13 [[39](#)]
ADRIAN WILLIAMS/Atty. for dbt.

The motion will be denied without prejudice. The debtors seek an order that the respondent's judgment lien is wholly unsecured. However, the evidence presented regarding the value of the subject property shows that the judgment lien is almost fully secured. No appearance is necessary.

6. [13-15410](#)-B-13 GREGORY/ROSA MOORE CONTINUED OBJECTION TO
PPR-1 CONFIRMATION OF PLAN BY BANK OF
BANK OF AMERICA, N.A./MV AMERICA, N.A.
10-1-13 [[34](#)]
DONNY BRAND/Atty. for dbt.
MELISSA VERMILLION/Atty. for mv.

This objection to confirmation of a chapter 13 plan will be overruled without prejudice. The debtor(s) has (have) filed a modified plan. The plan that is the subject of this objection is deemed withdrawn. Within 7 days, the debtor(s) shall serve the modified plan and set a confirmation hearing. The court will prepare a civil minute order. No appearance is necessary.

7. [13-15735](#)-B-13 YOLANDA RENTERIA MOTION TO VALUE COLLATERAL OF
PLF-1 VALLEY FIRST CREDIT UNION
YOLANDA RENTERIA/MV 10-11-13 [[13](#)]
PETER FEAR/Atty. for dbt.

This motion to value respondent's collateral 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 presented, the respondent's secured claim will be fixed at \$16,863. The moving party shall submit a proposed order consistent with this ruling. *The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates.* The order will be effective upon confirmation of the chapter 13 plan. No appearance is necessary.

8. [13-15946](#)-B-13 ROBERTO RODRIGUEZ AND TERESA AGUILAR
KAZ-1 U.S. BANK NATIONAL ASSOCIATION/MV
THOMAS GILLIS/Atty. for dbt.
KRISTIN ZILBERSTEIN/Atty. for mv. OBJECTION TO CONFIRMATION OF
PLAN BY U.S. BANK NATIONAL
ASSOCIATION
10-29-13 [[27](#)]

Based on the respondent's opposition, this matter will be continued to December 4, 2013, at 1:30 p.m., to be heard with the debtors' motion to value the same collateral (DC# TOG-1). Both matters will be consolidated for purposes of discovery and trial. Both matters are hereby deemed to be contested matters. Pursuant to FRBP 9014(c), the federal rules of discovery apply to contested matters. The debtor(s) shall make the subject property available for inspection on reasonable notice. The parties shall immediately commence formal discovery, exchange appraisals, meet and confer, set deposition dates if necessary, and be prepared for the court to set an early evidentiary hearing if the matters are not resolved by the continued hearing date. The court will prepare a civil minute order. No appearance is necessary.

9. [11-15150](#)-B-13 EDSEL/ZENAIDA DALISAY MOTION TO MODIFY PLAN
TCS-5 9-16-13 [[82](#)]
EDSEL DALISAY/MV
TIMOTHY SPRINGER/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.

10. [13-10962](#)-B-13 JOSE/MARY GONZALES MOTION TO MODIFY PLAN
ALG-2 9-30-13 [[45](#)]
JOSE GONZALES/MV
JANINE ESQUIVEL/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.

11. [13-16362](#)-B-13 ROGELIO REYES AND ANA MOTION TO VALUE COLLATERAL OF
TOG-1 PAEZ BANK OF AMERICA
ROGELIO REYES/MV 10-10-13 [[10](#)]
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.

12. [13-15268](#)-B-13 GILBERT ROMERO AND CONTINUED MOTION TO VALUE
JRL-1 RICHARD MARQUEZ COLLATERAL OF JPMORGAN CHASE
GILBERT ROMERO/MV BANK, N.A.
8-22-13 [[20](#)]
JERRY LOWE/Atty. for dbt.
RESPONSIVE PLEADING
13. [13-15268](#)-B-13 GILBERT ROMERO AND CONTINUED AMENDED OBJECTION TO
PD-1 RICHARD MARQUEZ CONFIRMATION OF PLAN BY JP
JPMORGAN CHASE BANK, N.A./MV MORGAN CHASE BANK, N.A. .
9-3-13 [[27](#)]
JERRY LOWE/Atty. for dbt.
ROBERT ZAHRADKA/Atty. for mv.
14. [13-14188](#)-B-13 VICENTE GUERRERO AND CONTINUED MOTION TO VALUE
JMI-1 BIBIANA LOPEZ-BUSTAMANTE COLLATERAL OF BANK OF AMERICA,
VICENTE GUERRERO/MV N.A.
8-19-13 [[32](#)]
J. IRIGOYEN/Atty. for dbt.

This motion will be denied without prejudice. The moving papers and supporting documents were not served on respondent's counsel in compliance with the court's civil minute order dated October 25, 2013. No appearance is necessary.

15. [13-16393](#)-B-13 LAURA PONCE
MBB-1
BANK OF AMERICA, N.A./MV
CORI JONES/Atty. for mv.
CASE DISMISSED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-11-13 [[15](#)]

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