

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Wednesday, November 20, 2013
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.

4. [13-13443](#)-B-7 CLANTON CONSTRUCTION, MOTION TO PAY
TGF-4 INC. 10-20-13 [[41](#)]
JEFFREY VETTER/MV
JACOB EATON/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.

5. [13-14444](#)-B-7 MARIA BONILLA CONTINUED HEARING RE: MOTION TO
RSW-1 AVOID LIEN OF FIA CARD
MARIA BONILLA/MV SERVICES, N.A.
10-2-13 [[15](#)]
ROBERT WILLIAMS/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. [10-16358](#)-B-7 CODY/HALEY BENNETT OBJECTION TO CLAIM OF SKYCON
PK-6 ELECTRIC, CLAIM NUMBER 14
JEFFREY VETTER/MV 9-17-13 [[110](#)]
JACOB EATON/Atty. for dbt.
PATRICK KAVANAGH/Atty. for mv.

The objection will be sustained. Claim # 14 is deemed to be a timely filed non-priority general unsecured claim. The objecting party shall submit a proposed order consistent with this ruling. No appearance is necessary.

7. [12-10963](#)-B-7 TEJWANT/KIRPAL BAL CONTINUED MOTION FOR SANCTIONS
VAG-1 FOR VIOLATION OF THE DISCHARGE
TEJWANT BAL/MV INJUNCTION
10-17-13 [[24](#)]
VINCENT GORSKI/Atty. for dbt.

8. [13-14474](#)-B-7 JENNIFER TALIULU MOTION TO AVOID LIEN OF
FPS-1 DISCOVER BANK
JENNIFER TALIULU/MV 10-7-13 [[21](#)]
FRANK SAMPLES/Atty. for dbt.

This matter will be continued to December 17, 2013, at 10:00 a.m., in Fresno. The debtor shall file evidence to show that the debtor owned the subject property at the time the judgment lien attached. *Farrey v. Sanderfoot, 111 S.Ct. 667.* The motion seeks to avoid a judicial lien against the Raymond Court property. However, the abstract of judgment suggests that the debtor live on West A Street at the time the abstract was recorded. The court will prepare a minute order. No appearance is necessary.

9. [13-16584](#)-B-7 KACEY MENDOZA ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
10-15-13 [[10](#)]
ORDER APPROVING PAYMENT IN
INSTALLMENTS 10/29/13, FIRST
PAYMENT DUE 12/2/13

The record shows that an order has been entered approving payment of the required fee in installments. The first payment is not yet due. The OSC will be dropped from calendar. No appearance is necessary.

10. [13-16585](#)-B-7 RICHARD BELL ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
10-15-13 [[11](#)]
DISMISSED 10/15/13

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

11. [12-18995](#)-B-7 LORIN/KYMBERLI SMALLEY MOTION TO SELL
TGF-4 10-20-13 [[60](#)]
RANDELL PARKER/MV
NEIL SCHWARTZ/Atty. for dbt.
VINCENT GORSKI/Atty. for mv.

12. [12-17199](#)-B-7 GURSEV KAUR OBJECTION TO CLAIM OF YULECXY
CRS-1 HERNANDEZ, CLAIM NUMBER 1
GURSEV KAUR/MV 9-30-13 [[40](#)]
CYNTHIA SCULLY/Atty. for dbt.
RESPONSIVE PLEADING

13. [12-17199](#)-B-7 GURSEV KAUR OBJECTION TO CLAIM OF MARIA
CRS-2 CAMARENA, CLAIM NUMBER 2
GURSEV KAUR/MV 9-30-13 [[46](#)]
CYNTHIA SCULLY/Atty. for dbt.
RESPONSIVE PLEADING

10:30 A.M.

1. [13-15500](#)-B-7 LYZETTE LERICHI MOTION FOR RELIEF FROM
VVF-1 AUTOMATIC STAY
HONDA LEASE TRUST/MV 10-23-13 [[12](#)]
NEIL SCHWARTZ/Atty. for dbt.
VINCENT FROUNJIAN/Atty. for mv.
HONDA LEASE TRUST VS.

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.

2. [13-12998](#)-B-7 KIMBERLY SHAW MOTION TO CONFIRM TERMINATION
OR ABSENCE OF STAY
NATIONSTAR MORTGAGE, L.L.C./MV 9-30-13 [[26](#)]
FRANK SAMPLES/Atty. for dbt.
JOSH HARRISON/Atty. for mv.
DISCHARGED

The motion will be denied. The moving papers do not include an appropriate docket control number as required by Local Rule 9014-1(c).

In addition, the form of the proof of service does not comply with LBR 9014-1(d)(1) (see Local Rules, Appendix II, EDC.002-901, Revised Guidelines for the Preparation of Documents (4)(e)).

Finally, the record does not show that the trustee has abandoned the moving party's collateral. The automatic stay has already terminated as to the debtors upon entry of their discharge. Unless the court enters an order granting relief from stay on a properly noticed motion, the property will be abandoned and the stay will terminate by operation of law upon entry of the final decree and closure of the case. No appearance is necessary.

1:00 P.M.

1. [13-12900](#)-B-13 CRAIG/JOSEPHINE SMITH
LKW-4
CRAIG SMITH/MV
LEONARD WELSH/Atty. for dbt.
RESPONSIVE PLEADING
MOTION TO CONFIRM PLAN
10-8-13 [[55](#)]
2. [13-12900](#)-B-13 CRAIG/JOSEPHINE SMITH
LKW-5
LEONARD WELSH/MV
LEONARD WELSH/Atty. for dbt.
MOTION FOR COMPENSATION FOR
LEONARD K. WELSH, DEBTOR'S
ATTORNEY(S),
10-15-13 [[60](#)]
3. [13-12900](#)-B-13 CRAIG/JOSEPHINE SMITH
MHM-1
MICHAEL MEYER/MV
LEONARD WELSH/Atty. for dbt.
MOTION TO DISMISS CASE
10-31-13 [[68](#)]
4. [13-13907](#)-B-13 STEVE/LILLY PADILLA
RSW-1
STEVE PADILLA/MV
ROBERT WILLIAMS/Atty. for dbt.
CONTINUED MOTION TO AVOID LIEN
OF ASPEN HIGHLAND HOMEOWNERS
ASSOCIATION
9-6-13 [[15](#)]
5. [11-63317](#)-B-13 STEVEN/TERRY MELLO
LKW-3
LEONARD WELSH/MV
LEONARD WELSH/Atty. for dbt.
MOTION FOR COMPENSATION FOR
LEONARD K. WELSH, DEBTOR'S
ATTORNEY(S),
10-25-13 [[56](#)]

6. [10-62823](#)-B-13 BURL/AGNES MAXWELL
LKW-7
LEONARD WELSH/MV

LEONARD WELSH/Atty. for dbt.

MOTION FOR COMPENSATION FOR
LEONARD K. WELSH, DEBTOR'S
ATTORNEY(S),
10-23-13 [[111](#)]

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. [13-15726](#)-B-13 KEVIN/KATY CARSON
APN-1
PNC BANK, N.A./MV
JANET MERTES/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.
PLAN WITHDRAWN

OBJECTION TO CONFIRMATION OF
PLAN BY PNC BANK, N.A.
10-11-13 [[18](#)]

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.

8. [13-13631](#)-B-13 NELSON/MARGARET DELGADO
RSW-1
NELSON DELGADO/MV

ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO VALUE
COLLATERAL OF JPMORGAN CHASE
BANK, NATIONAL ASSOCIATION
9-6-13 [[19](#)]

9. [13-14331](#)-B-13 RITA BLACK
MHM-1
MICHAEL MEYER/MV

CONTINUED MOTION TO DISMISS
CASE AND/OR MOTION TO DISMISS
CASE FOR UNREASONABLE DELAY
THAT IS PREJUDICIAL TO
CREDITORS , MOTION TO DISMISS
CASE FOR FAILURE TO MAKE PLAN
PAYMENTS , MOTION/APPLICATION
TO DISMISS CASE FOR FAILURE TO
PROVIDE TAX DOCUMENTS
10-1-13 [[53](#)]

RESPONSIVE PLEADING

10. [13-14331](#)-B-13 RITA BLACK
RVP-1
CITIMORTGAGE, INC./MV
ROSHNI PATEL/Atty. for mv.

OBJECTION TO CONFIRMATION OF
PLAN BY CITIMORTGAGE, INC.
10-2-13 [[64](#)]

This matter will be continued to January 10, 2014, at 1:30 p.m. The trustee has not yet concluded the meeting of creditors and by prior order of the court, the trustee has another 7 days after completion of the creditors' meeting to file his objection to the plan. The court will prepare a civil minute order. No appearance is necessary.

11. [13-14842](#)-B-13 DAVID/JUNE BERNAL
RSW-1
DAVID BERNAL/MV
ROBERT WILLIAMS/Atty. for dbt. MOTION TO AVOID LIEN OF RAZOR
CAPITAL LLC
11-6-13 [[24](#)]
12. [11-11648](#)-B-13 MICHAEL/DRUSILLA
RSW-4 KOVACEVICH
MICHAEL KOVACEVICH/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING CONTINUED MOTION TO SELL
10-3-13 [[99](#)]
13. [13-15549](#)-B-7 GLADYS/DARIO MARTINEZ
MRG-1
DEUTSCHE BANK NATIONAL TRUST
COMPANY/MV
CARLO REYES/Atty. for dbt.
MICHAEL GONZALES/Atty. for mv.
WITHDRAWN OBJECTION TO CONFIRMATION OF
PLAN BY DEUTSCHE BANK NATIONAL
TRUST COMPANY
9-17-13 [[14](#)]

The objection to confirmation will be dropped from calendar without a disposition. The objection to confirmation has been withdrawn and the case has been converted to chapter 7. No appearance is necessary.

14. [11-10559](#)-B-13 KATHLEEN GALVEZ
MHM-2
MICHAEL MEYER/MV
PHILLIP GILLET/Atty. for dbt. CONTINUED MOTION TO DISMISS
CASE FOR FAILURE TO MAKE PLAN
PAYMENTS
10-7-13 [[119](#)]
15. [13-13664](#)-B-13 JERRY JANUARY
PK-3
JERRY JANUARY/MV
PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING MOTION TO VALUE COLLATERAL OF
LOZANO FAMILY TRUST
10-23-13 [[174](#)]

Based on the respondent's opposition, this matter will be continued to January 10, 2014, at 1:30 p.m., in Bakersfield. This matter is now deemed to be a contested matter. 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 matter is not resolved by the continued hearing date. The court will prepare a civil minute order. No appearance is necessary.

16. [11-18768](#)-B-13 JOSE RAMOS
LKW-4
LEONARD WELSH/MV
LEONARD WELSH/Atty. for dbt.
- MOTION FOR COMPENSATION FOR
LEONARD K. WELSH, DEBTOR'S
ATTORNEY(S),
10-18-13 [[65](#)]

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.

17. [13-16580](#)-B-13 JOEL TORRES
JLH-1
DVP, LP/MV
JOSEPH HORSWILL/Atty. for mv.
DVP, LP VS.
- MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-5-13 [[20](#)]
18. [12-60481](#)-B-13 TERRY/DELENA HALL
PK-2
TERRY HALL/MV
PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING
- CONTINUED OBJECTION TO CLAIM OF
ROPAY ASSET INVESTORS, LLC,
CLAIM NUMBER 4
8-19-13 [[34](#)]
19. [13-14581](#)-B-13 FLORIANO/IMELDA RAMA
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
MICHAEL MEYER VS.
- OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
10-17-13 [[25](#)]
20. [13-10685](#)-B-13 GEORGE/ELISA RUBIO
PWG-3
GEORGE RUBIO/MV
PHILLIP GILLET/Atty. for dbt.
NOTICE INCORRECT AS TO
LOCATION
- MOTION TO INCUR DEBT
11-11-13 [[55](#)]

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). PWG-3 has already been used for a different motion.

In addition, the motion was not served consistent with the time requirements of LBR 9014-1(f)(2). It was served fewer than 14 days prior to the hearing. No appearance is necessary.

21. [11-18387](#)-B-13 RUBEN/ANNA ESPINOSA
LKW-5
LEONARD WELSH/MV

MOTION FOR COMPENSATION FOR
LEONARD K. WELSH, DEBTOR'S
ATTORNEY(S),
10-22-13 [[83](#)]

LEONARD WELSH/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.

22. [11-18387](#)-B-13 RUBEN/ANNA ESPINOSA
LKW-6
RUBEN ESPINOSA/MV
LEONARD WELSH/Atty. for dbt.

MOTION TO BORROW AND/OR MOTION
TO PAY
10-22-13 [[90](#)]

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.

23. [13-14691](#)-B-13 CARL BLACK
MHM-1
MICHAEL MEYER/MV

CONTINUED MOTION TO DISMISS
CASE FOR UNREASONABLE DELAY
THAT IS PREJUDICIAL TO
CREDITORS AND/OR MOTION TO
DISMISS CASE FOR FAILURE TO
PROVIDE TAX DOCUMENTS , MOTION
TO DISMISS CASE
10-1-13 [[43](#)]

RESPONSIVE PLEADING

24. [11-16395](#)-B-13 ARVEL/JENNIFER HOWARD
LKW-3
LEONARD WELSH/MV

MOTION FOR COMPENSATION FOR
LEONARD K. WELSH, DEBTOR'S
ATTORNEY(S),
10-29-13 [[68](#)]

LEONARD WELSH/Atty. for dbt.

25. [13-15696](#)-B-13 MARTHA LUNA
MHM-1
MICHAEL MEYER/MV

OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
10-17-13 [[28](#)]

PATRICK KAVANAGH/Atty. for dbt.
WITHDRAWN

The trustee's objection to confirmation has been withdrawn. No appearance is necessary.

26. [13-15726](#)-B-13 KEVIN/KATY CARSON

KEVIN CARSON/MV
JANET MERTES/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
PNC BANK, N.A.
11-13-13 [[36](#)]

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).

Also, the motion was not served consistent with the time requirements of LBR 9014-1(f)(2).

In addition, there is no proof of service in the record to show that the notice and motion were served on the respondent. No appearance is necessary.

1:30 P.M.

1. [13-13106](#)-B-13 SANTIAGO PEREZ
MHM-2
MICHAEL MEYER/MV
WILLIAM OLCOTT/Atty. for dbt.

MOTION TO DISMISS CASE
11-5-13 [[26](#)]

2. [13-15125](#)-B-13 TRACY WILLIAMS
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
10-21-13 [[19](#)]

JOEL FEINSTEIN/Atty. for dbt.

3:00 P.M.

1. 13-17297-B-11 MARIA PEDRO
TOG-2
MARIA PEDRO/MV
THOMAS GILLIS/Atty. for dbt.

MOTION TO USE CASH COLLATERAL
11-14-13 [4]

3:30 P.M.

1. [13-11467](#)-B-7 JOSE ALCALA CRUZ AND LISA MOTION FOR ENTRY OF DEFAULT
[13-1076](#) ALCALA RWS-1 JUDGMENT
BRM RECOVERY SERVICES V. 9-24-13 [[14](#)]
ALCALA CRUZ, JR.
RICHARD SNYDER/Atty. for mv.

2. [13-11271](#)-B-7 SUKHJINDER SINGH CONTINUED STATUS CONFERENCE RE:
[13-1083](#) COMPLAINT
TOOR V. SINGH 7-23-13 [[1](#)]
WILLIAM OLCOTT/Atty. for pl.
RESPONSIVE PLEADING

3. [12-18995](#)-B-7 LORIN/KYMBERLI SMALLEY CONTINUED COUNTER MOTION TO
DMG-1 COMPEL ABANDONMENT AND/OR
LORIN SMALLEY/MV MOTION TO COMPEL ABANDONMENT
9-18-13 [[43](#)]

NEIL SCHWARTZ/Atty. for dbt.
RESPONSIVE PLEADING

The court has been informed by debtors' counsel that this matter has been settled. The motion will be dropped from calendar without disposition. No appearance is necessary.

4. [12-18995](#)-B-7 LORIN/KYMBERLI SMALLEY CONTINUED OBJECTION TO DEBTOR'S
TGF-2 CLAIM OF EXEMPTIONS
RANDELL PARKER/MV 7-3-13 [[22](#)]
NEIL SCHWARTZ/Atty. for dbt.
VINCENT GORSKI/Atty. for mv.

The court has been informed by debtors' counsel that this matter has been settled. The matter will be dropped from calendar without disposition. No appearance is necessary.

5. [12-18995](#)-B-7 LORIN/KYMBERLI SMALLEY CONTINUED MOTION FOR TURNOVER
TGF-3 OF PROPERTY
RANDELL PARKER/MV 9-3-13 [[33](#)]
NEIL SCHWARTZ/Atty. for dbt.
VINCENT GORSKI/Atty. for mv.

The court has been informed by debtors' counsel that this matter has been settled. The motion will be dropped from calendar without disposition. No appearance is necessary.

6. [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](#)]

This matter will be advanced and called on the 10:00 a.m. calendar with the related claim objections in the same case. No appearance is necessary at 3:30 p.m.

7. [12-17199](#)-B-7 GURSEV KAUR
[12-1188](#) LRP-1
VETTER V. KAUR
RENE LASTRETO/Atty. for mv.
OST 11/7

MOTION TO COMPEL
11-8-13 [[62](#)]

This matter will be advanced and called on the 10:00 a.m. calendar with the related claim objections in the same case. No appearance is necessary at 3:30 p.m.