

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Wednesday, December 10, 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.

1. [13-10302](#)-B-11 GMC DAIRY FARMS LP
DS-4
SOUSA AND COMPANY/MV

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF SOUSA AND COMPANY
ACCOUNTANT(S).
11-12-14 [[704](#)]

CHRISTIAN JINKERSON/Atty. for dbt.

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

2. [13-10302](#)-B-11 GMC DAIRY FARMS LP
RAC-7

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF BLAKELEY &
BLAKELEY LLP FOR RONALD A.
CLIFFORD, CREDITOR COMM.
ATY(S).
11-12-14 [[698](#)]

CHRISTIAN JINKERSON/Atty. for dbt.

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

3. [13-10302](#)-B-11 GMC DAIRY FARMS LP
TCL-5

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF TUCKER, CHIU,
HEBESHA & WARD PC FOR CHRISTIAN
D. JINKERSON, DEBTOR'S
ATTORNEY(S)
11-3-14 [[689](#)]

CHRISTIAN JINKERSON/Atty. for dbt.

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

4. [14-13949](#)-B-11 FAREED SAPHIEH
APN-1
WELLS FARGO BANK, N.A./MV
PETER FEAR/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-6-14 [[66](#)]

5. [13-16954](#)-B-11 MADERA ROOFING, INC.
WW-14
ERIC FROMME/Atty. for dbt.
RILEY WALTER/Atty. for mv.

DISCLOSURE STATEMENT FILED BY
TRUSTEE JAMES S. LOWE
10-31-14 [[642](#)]

6. [10-11289](#)-B-11 ACE FINANCIAL
KDG-41 CORPORATION
ACE FINANCIAL CORPORATION/MV
LISA HOLDER/Atty. for dbt.

MOTION FOR FINAL DECREE AND
ORDER CLOSING CASE
11-20-14 [[535](#)]

10:30 A.M.

1. [12-14426](#)-B-7 HEATHER OBERNOLTE
[14-1107](#)
MANFREDO V. WATERMAN
GABRIEL WADDELL/Atty. for pl.
RESPONSIVE PLEADING

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
8-28-14 [[1](#)]

2. [13-17257](#)-B-7 MARY MORENO
TCS-3
MARY MORENO/MV
TIMOTHY SPRINGER/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO COMPEL
ABANDONMENT
9-13-14 [[46](#)]

3. [13-17257](#)-B-7 MARY MORENO
[14-1118](#)
SALVEN V. MORENO
TRUDI MANFREDO/Atty. for pl.

STATUS CONFERENCE RE: COMPLAINT
10-1-14 [[1](#)]

4. [13-17257](#)-B-7 MARY MORENO
[14-1118](#) LEH-1
SALVEN V. MORENO

MOTION TO DISMISS ADVERSARY
PROCEEDING/NOTICE OF REMOVAL
AND/OR MOTION FOR MORE DEFINITE
STATEMENT
11-6-14 [[9](#)]

UNKNOWN TIME OF FILING/Atty. for mv.
RESPONSIVE PLEADING

5. [11-19687](#)-B-7 ROBERT SCARPITTO
[14-1122](#)
SALVEN V. SCARPITTO SAND
DOLLAR PARTNERSHIP ET AL
THOMAS ARMSTRONG/Atty. for pl.
RESPONSIVE PLEADING

STATUS CONFERENCE RE: COMPLAINT
10-13-14 [[1](#)]

This matter has been rescheduled to January 15, 2015, at 10:30 a.m. No appearance is necessary.

1:30 P.M.

1. [09-18601](#)-B-13 REYNALDO GUTIERREZ
MHM-2
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
11-12-14 [[126](#)]
- HENRY NUNEZ/Atty. for dbt.
RESPONSIVE PLEADING, MOTION
WITHDRAWN

The trustee's motion has been withdrawn. No appearance is necessary.

2. [14-12101](#)-B-13 JORGE LARA
MHM-1
MICHAEL MEYER/MV
JANINE ESQUIVEL/Atty. for dbt.
- MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
10-15-14 [[30](#)]

The motion will be denied without prejudice. The case has been voluntarily converted to chapter 7. No appearance is necessary.

3. [14-13807](#)-B-13 GABRIEL/DEBRA BUENTELLO
RLF-2
GABRIEL BUENTELLO/MV
JEFF REICH/Atty. for dbt.
- MOTION TO CONFIRM PLAN
10-17-14 [[29](#)]

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. [10-60710](#)-B-13 ROBERT/ALMA COLEY
PLF-2
ROBERT COLEY/MV
PETER FEAR/Atty. for dbt.
- MOTION TO SELL AND/OR MOTION TO
PAY
11-19-14 [[54](#)]

5. [14-10423](#)-B-13 MARIA OROZCO
MHM-1
MICHAEL MEYER/MV
SCOTT LYONS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
10-15-14 [[36](#)]

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules and there is no opposition. Debtor filed a non-opposition to dismissal. Evidence shows material default in plan payments. Accordingly, the motion will be granted without oral argument. The case will be dismissed for cause shown. The court will prepare a civil minute order. No appearance is necessary.

6. [12-13931](#)-B-13 KIMBERLY VILAYPHONE
MHM-1
MICHAEL MEYER/MV
PETER FEAR/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
10-15-14 [[48](#)]

The Trustee's motion has been withdrawn. No appearance is necessary.

7. [14-12634](#)-B-13 ALVARO PACHECO
TOG-2
ALVARO PACHECO/MV
THOMAS GILLIS/Atty. for dbt.

MOTION TO CONFIRM PLAN
10-27-14 [[41](#)]

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.

8. [14-14641](#)-B-13 HENRY RIOS
JRL-2
HENRY RIOS/MV
JERRY LOWE/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN
10-30-14 [[30](#)]

This matter will be continued to January 15, 2015, at 1:30 p.m. The Trustee shall file and serve a statement of unresolved issues not later than January 5, 2015. The court will prepare a minute order. No appearance is necessary.

9. [14-14343](#)-B-13 RICHARD KELLEY
PLF-1
RICHARD KELLEY/MV
PETER FEAR/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO VALUE
COLLATERAL OF PENSICO TRUST
COMPANY
9-25-14 [[17](#)]

10. [14-14343](#)-B-13 RICHARD KELLEY
RWR-1
ALEXIS LANDSKRONER/MV

PETER FEAR/Atty. for dbt.
RUSSELL REYNOLDS/Atty. for mv.

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY ALEXIS
LANDSKRONER
10-20-14 [[31](#)]
11. [10-19451](#)-B-13 LAWRENCE/LINDA MCCOLLUM
MNE-6
LAWRENCE MCCOLLUM/MV
M. ENMARK/Atty. for dbt.

MOTION TO REFINANCE
10-29-14 [[115](#)]
12. [10-19451](#)-B-13 LAWRENCE/LINDA MCCOLLUM
MNE-7
LAWRENCE MCCOLLUM/MV
M. ENMARK/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
10-29-14 [[121](#)]
13. [14-14155](#)-B-13 LILIANA MENDEZ
MHM-1
MICHAEL MEYER/MV
DISMISSED 10/9/14

MOTION TO DISMISS CASE
10-3-14 [[21](#)]

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

14. [14-14163](#)-B-13 MANUEL/RISSY MONTOYA
ASW-1
MANUEL MONTOYA/MV

ADRIAN WILLIAMS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
DEUTSCHE BANK NATIONAL TRUST
COMPANY
10-17-14 [[31](#)]

This matter will be continued to December 23, 2014, at 1:30 p.m., for additional evidence to show that the named respondent holds the second lien against the subject property. Based on Exhibit B attached in support of the motion, the lien appears to be held in the name of New Century Mortgage Corporation. The court will prepare a minute order. No appearance is necessary.

15. [14-14163](#)-B-13 MANUEL/RISSY MONTOYA MOTION TO CONFIRM PLAN
ASW-2 10-17-14 [[37](#)]
MANUEL MONTOYA/MV
ADRIAN WILLIAMS/Atty. for dbt.

This matter will be continued to December 23, 2014, at 1:30 p.m. This plan cannot be confirmed until the Debtors establish that Deutsche Bank National Trust Company is the holder of the junior lien provided for in Class 2. The court will prepare a minute order. No appearance is necessary.

16. [14-13666](#)-B-13 JOE/ROWENA GARCIA MOTION TO CONFIRM PLAN
PLF-3 10-27-14 [[40](#)]
JOE GARCIA/MV
PETER FEAR/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.

17. [11-60072](#)-B-13 RICHARD/JANICE TOGNOTTI MOTION TO MODIFY PLAN
MNE-5 10-23-14 [[63](#)]
RICHARD TOGNOTTI/MV
M. ENMARK/Atty. for dbt.
RESPONSIVE PLEADING

18. [12-10275](#)-B-13 MIGUEL/ALICE AYALA MOTION TO DISMISS CASE FOR
MHM-1 FAILURE TO MAKE PLAN PAYMENTS
MICHAEL MEYER/MV 10-15-14 [[24](#)]
PETER BUNTING/Atty. for dbt.
WITHDRAWN

The Trustee's motion has been withdrawn. No appearance is necessary.

19. [14-12179](#)-B-13 MYRNA HERNANDEZ
RR-2
MYRNA HERNANDEZ/MV
RANDY RISNER/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
WELLS FARGO HOME MORTGAGE
11-6-14 [[37](#)]

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.

20. [14-14679](#)-B-13 BERNARDINE VIGARINO
PBB-1
BERNARDINE VIGARINO/MV
PETER BUNTING/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
FRANCHISE TAX BOARD
11-3-14 [[14](#)]

21. [11-62984](#)-B-13 RAMSES/MAYRA GOMEZ
SL-7
RAMSES GOMEZ/MV
SCOTT LYONS/Atty. for dbt.

MOTION TO APPROVE LOAN
MODIFICATION
11-19-14 [[98](#)]

22. [12-18687](#)-B-7 PEDRO/ERIKA LOPEZ
MHM-2
MICHAEL MEYER/MV
DAVID JENKINS/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
10-15-14 [[71](#)]

The Trustee's motion has been withdrawn. No appearance is necessary.

23. [09-12188](#)-B-13 DAVID/DAWN PHANCO
[14-1120](#)
PHANCO ET AL V. EL-HADADEEN
GABRIEL WADDELL/Atty. for pl.

STATUS CONFERENCE RE: COMPLAINT
10-3-14 [[1](#)]

24. [10-14890](#)-B-13 STANLEY/LINDA WEDEL MOTION FOR RELIEF FROM
PJR-1 AUTOMATIC STAY
TRI COUNTIES BANK/MV 11-12-14 [[42](#)]
DAVID JENKINS/Atty. for dbt.
PHILIP RHODES/Atty. for mv.

This motion for relief from the automatic stay will be denied as moot. The secured claim relating to this collateral is provided for in Class 4 of the debtor(s) confirmed chapter 13 plan. Upon confirmation of the chapter 13 plan, the automatic stay was modified for this claim to permit enforcement of the creditor's remedies with regard to the collateral in the event of a default under applicable law. No attorney's fees will be awarded in relation to this motion. No appearance is necessary.

25. [10-64590](#)-B-13 SAMUEL/PATRICIA GARCIA MOTION TO DISMISS CASE FOR
MHM-1 FAILURE TO MAKE PLAN PAYMENTS
MICHAEL MEYER/MV 10-15-14 [[42](#)]
GEOFFREY ADALIAN/Atty. for dbt.
WITHDRAWN

The Trustee's motion has been withdrawn. No appearance is necessary.

26. [11-18795](#)-B-13 ISABEL DIAZ MOTION FOR ENTRY OF DISCHARGE
MB-2 11-1-14 [[51](#)]
ISABEL DIAZ/MV
MICHAEL BENAVIDES/Atty. for dbt.

This motion will be denied without prejudice. This motion was already denied at a hearing on October 9, 2014. The Trustee's final report has now been approved. The clerk shall process the Debtor's discharge pursuant to Local Bankruptcy Rule 5009-1. No appearance is necessary.

27. [14-15485](#)-B-13 JACOB MARTINEZ MOTION TO EXTEND AUTOMATIC STAY
PBB-1 12-2-14 [[18](#)]
JACOB MARTINEZ/MV
PETER BUNTING/Atty. for dbt.