

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Wednesday, January 7, 2015
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.

10:00 A.M.

1. [14-15548](#)-B-7 JAMES BOONE MOTION TO COMPEL ABANDONMENT
 PBB-1 12-2-14 [[17](#)]
 JAMES BOONE/MV
 PETER BUNTING/Atty. for dbt.

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 specific property to be abandoned shall be listed in the proposed order. Once the abandonment becomes effective, the debtor will be barred from amending his exemptions to shift the exemptions from the abandoned assets to other property of the estate. No appearance is necessary.

2. [14-14150](#)-B-7 BRIAN/KRISTA NIX MOTION TO DISMISS CASE PURSUANT
 UST-1 TO 11 U.S.C. SECTION 707(B)
 TRACY DAVIS/MV 11-25-14 [[28](#)]
 KARNEY MEKHITARIAN/Atty. for dbt.
 ROBIN TUBESING/Atty. for mv.

3. [14-11363](#)-B-7 WESTERN POULTRY SALES MOTION TO SELL AND/OR MOTION TO
 TMT-1 COMPANY, INC. COMPROMISE CONTROVERSY/APPROVE
 TRUDI MANFREDO/MV SETTLEMENT AGREEMENT WITH STEVE
 AND CISSY CORBITT
 12-3-14 [[12](#)]

 LEONARD WELSH/Atty. for dbt.
 TRUDI MANFREDO/Atty. for mv.

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. [09-11871](#)-B-7 COVENANT SERVICES, INC. MOTION FOR COMPENSATION FOR
RHT-3 RAYMA CHURCH, SPECIAL
ROBERT HAWKINS/MV COUNSEL(S).
12-9-14 [[85](#)]

DAVID JENKINS/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.

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.

5. [12-18687](#)-B-7 PEDRO/ERIKA LOPEZ MOTION TO COMPEL ABANDONMENT
DRJ-6 12-7-14 [[90](#)]
PEDRO LOPEZ/MV
DAVID JENKINS/Atty. for dbt.

10:30 A.M.

1. [14-15704](#)-B-7 NORMAN PIMENTEL MOTION FOR RELIEF FROM
 BRL-1 AUTOMATIC STAY
 LORE ARON/MV 12-12-14 [[16](#)]
 BENJAMIN LEVINSON/Atty. for mv.

2. [14-15314](#)-B-7 GORDON/BRITTANY SMITH MOTION FOR RELIEF FROM
 RDW-1 AUTOMATIC STAY
 CAM VII TRUST/MV 12-2-14 [[16](#)]
 MARK ZIMMERMAN/Atty. for dbt.
 REILLY WILKINSON/Atty. for mv.
 WITHDRAWN

The motion has been withdrawn. No appearance is necessary.

3. [11-18591](#)-B-7 ROY/RUTH VERA MOTION FOR RELIEF FROM
 DJD-1 AUTOMATIC STAY
 SETERUS, INC./MV 12-15-14 [[75](#)]
 PETER BUNTING/Atty. for dbt.
 DARREN DEVLIN/Atty. for mv.
 DISCHARGED

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be denied as moot as to the debtor(s) because their discharge has been entered. The motion will be granted for cause shown as to the chapter 7 trustee. 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.

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| 4. 14-15314-B-7 GORDON/BRITTANY SMITH
RDW-3
CAM VII TRUST/MV
MARK ZIMMERMAN/Atty. for dbt.
REILLY WILKINSON/Atty. for mv. | MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-23-14 [35] |
| 5. 14-16018-B-7 AGGIE BOUSKOS
DRJ-1
GSF PROPERTIES INC./MV
ERIC ESCAMILLA/Atty. for dbt.
DAVID JENKINS/Atty. for mv. | MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-24-14 [7] |
| 6. 14-15548-B-7 JAMES BOONE
RDW-1
CAM VII TRUST/MV
PETER BUNTING/Atty. for dbt.
REILLY WILKINSON/Atty. for mv. | MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-24-14 [23] |

11:00 A.M.

1. [14-15134](#)-B-7 DARRA HIRSH

REAFFIRMATION AGREEMENT WITH
SANTANDER CONSUMER USA INC.
12-1-14 [[13](#)]

DAVID JENKINS/Atty. for dbt.

The court intends to deny approval of this reaffirmation agreement. The debtor's attorney signed the reaffirmation agreement, however, both the reaffirmation agreement and the bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship which has not been rebutted in the reaffirmation agreement. No appearance is necessary.

2. [14-14842](#)-B-7 MICHAEL/THAO DUTCHER

PRO SE REAFFIRMATION AGREEMENT
WITH AMERICREDIT FINANCIAL
SERVICES, INC.
12-16-14 [[16](#)]

SCOTT SAGARIA/Atty. for dbt.

The hearing will be dropped from calendar. The court is not approving or denying approval of the reaffirmation agreement. Debtors were represented by counsel when they entered into the reaffirmation agreement. Pursuant to 11 U.S.C. § 524(c)(3), "if the debtor is represented by counsel, the agreement *must* be accompanied by an affidavit of the debtor's attorney attesting to the referenced items before the agreement will have legal effect." *In re Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok, 2009) (emphasis in original). The reaffirmation agreement, in the absence of a declaration by debtor's counsel, does not meet the requirements of 11 U.S.C. § 524(c) and is not enforceable. The Debtors shall have 14 days to refile the reaffirmation agreement properly signed and endorsed by the attorney. No appearance is necessary at this hearing.

3. [14-14842](#)-B-7 MICHAEL/THAO DUTCHER

PRO SE REAFFIRMATION AGREEMENT
WITH AMERICREDIT FINANCIAL
SERVICES, INC.
12-16-14 [[18](#)]

SCOTT SAGARIA/Atty. for dbt.

This appears to be a duplicate of docket number 2, above, and will be dropped from calendar without a disposition.

4. 14-15429-B-7 LEE/KEVIN CLARK

PRO SE REAFFIRMATION AGREEMENT
WITH TD AUTO FINANCE LLC
12-23-14 [15]

1:30 P.M.

1. [10-11606](#)-B-13 JOEL/KIM SCHOLAR
MNE-3
JOEL SCHOLAR/MV
M. ENMARK/Atty. for dbt.

MOTION TO MODIFY PLAN
11-19-14 [[59](#)]

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.

2. [14-13916](#)-B-13 SERGIO ALVAREZ
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 PROVIDE TAX
DOCUMENTS , MOTION TO DISMISS
CASE
11-26-14 [[28](#)]

THOMAS GILLIS/Atty. for dbt.

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules and there is no opposition. It appears from the evidence that there is a material default in plan payments and failure to complete the § 341 meeting of creditors. 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.

3. [14-14016](#)-B-13 ISMAEL GONZALEZ
TGF-1
ISMAEL GONZALEZ/MV
VINCENT GORSKI/Atty. for dbt.

MOTION TO CONFIRM PLAN
11-13-14 [[41](#)]

4. [10-17322](#)-B-13 DONALD/ZELLA LOVELADY MOTION TO MODIFY PLAN
PLG-3 11-24-14 [[75](#)]
DONALD LOVELADY/MV
STEVEN ALPERT/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.

5. [14-14123](#)-B-13 PETER OCHOA AND BEATRICE MOTION TO CONFIRM PLAN
RR-2 OLIVARES 11-22-14 [[37](#)]
PETER OCHOA/MV
RANDY RISNER/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.

6. [14-14129](#)-B-13 FLORENSIO/GENEVIEVE MOTION TO VALUE COLLATERAL OF
FJG-3 ESPINOSA WESTAMERICA BANK
FLORENSIO ESPINOSA/MV 11-25-14 [[40](#)]
F. GIST/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 \$4,783. 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.

7. [14-14356](#)-B-13 ANDRES HORTA AND MARIA MOTION TO DISMISS CASE
MHM-1 MORALES 11-25-14 [[24](#)]
MICHAEL MEYER/MV
THOMAS GILLIS/Atty. for dbt.

This matter will be continued to January 29, 2015, at 1:30 p.m. The debtors shall file points and authorities and any additional evidence they may have to show that the wedding ceremony in Mexico was sufficient to satisfy the "spouse" requirements of §302(a). Alternatively, the debtors may elect to dismiss one of the purported co-debtors or move to sever the case into two cases and for joint administration of the two cases. The court will prepare a minute order. No appearance is necessary.

8. [14-13962](#)-B-13 JORGE GOMEZ AND MARIA
BSH-2 TOVAR DE GOMEZ
JORGE GOMEZ/MV
BRIAN HADDIX/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
JPMORGAN CHASE BANK, N.A.
12-3-14 [[38](#)]

This motion to value respondent's collateral will be denied without prejudice. The motion was not served on the respondent in compliance with FRBP 7004. The debtors properly served the motion on the respondent's attorney according to the respondent's request for special notice. However, the request for special notice explicitly recited that it was not a waiver of the respondent's rights to service pursuant to Rule 7004. No appearance is necessary.

9. [13-10770](#)-B-13 ERIC/VERNA KAAI
APN-2
WELLS FARGO BANK, N.A./MV
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-26-14 [[126](#)]

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 to the extent that it applies. 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.

10. [14-13571](#)-B-13 LEONARD/ROSELINE DUVAL
PLG-1
LEONARD DUVAL/MV
CHELSEA RYAN/Atty. for dbt.

CONTINUED MOTION TO CONFIRM
PLAN
11-4-14 [[29](#)]

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.

11. [14-15271](#)-B-13 NANCY THOMAS
APN-1
SANTANDER CONSUMER USA INC./MV
DAVID JENKINS/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-26-14 [[21](#)]

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 to the extent that it applies. 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.

12. [14-14972](#)-B-13 LUIS/KELLIE LUJAN
PLG-1
LUIS LUJAN/MV
RABIN POURNAZARIAN/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
WELLS FARGO BANK, N.A.
12-4-14 [[22](#)]

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 \$5,313. 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.

13. [14-15773](#)-B-13 H VILLAREAL

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-15-14 [[10](#)]

CASE DISMISSED

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

14. [14-10193](#)-B-13 MARTA MATA AND GUSTAVO MOTION TO MODIFY PLAN
TCS-2 SEGURA 12-1-14 [[36](#)]
MARTA MATA/MV
TIMOTHY SPRINGER/Atty. for dbt.
RESPONSIVE PLEADING

15. [14-14594](#)-B-13 DIEDRE BROOKS MOTION TO CONFIRM PLAN
FJG-1 11-24-14 [[24](#)]
DIEDRE BROOKS/MV
F. GIST/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. [11-18796](#)-B-13 JOEL LOPEZ AND MARIA DIAZ MOTION FOR ENTRY OF DISCHARGE
MB-3 12-1-14 [[42](#)]
JOEL LOPEZ/MV
MICHAEL BENAVIDES/Atty. for dbt.
RESPONSIVE PLEADING

This motion will be denied without prejudice. The chapter 13 trustee's final report was filed November 13, 2014 and has now been approved. The clerk of the court has issued a notice of intent to enter discharge and appears to be processing the discharge pursuant to Local Rule 5009-1. Unless the debtors can show cause for the immediate entry of a discharge, then the discharge should be processed and entered pursuant to the Local Rules. No appearance is necessary.

17. 14-15875-B-13 RICHARD/VERONICA ESPINOZA MOTION TO EXTEND AUTOMATIC STAY
TCS-1 12-23-14 [8]
RICHARD ESPINOZA/MV
TIMOTHY SPRINGER/Atty. for dbt.

18. 09-17388-B-13 JERRY/SHARANN BROWN MOTION TO INCUR DEBT
PBB-5 12-23-14 [75]
JERRY BROWN/MV
PETER BUNTING/Atty. for dbt.