

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Thursday, February 5, 2015
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.

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. [13-16845](#)-B-7 KEYSTONE MINE MANAGEMENT CONTINUED STATUS CONFERENCE RE:
[14-1112](#) II COMPLAINT
 GORSKI V. KEYSTONE MINING 9-17-14 [[1](#)]
 COMPANY ET AL
 LISA HOLDER/Atty. for pl.
 RESPONSIVE PLEADING

This matter will be continued to February 26, 2015, at 2:30 p.m. in Fresno, to be called after the plaintiff's motion for summary judgment. The court will prepare a minute order. No appearance is necessary.

2. [13-16845](#)-B-7 KEYSTONE MINE MANAGEMENT MOTION FOR SUMMARY JUDGMENT
[14-1112](#) II KDG-1 AND/OR MOTION FOR SUMMARY
 GORSKI V. KEYSTONE MINING JUDGMENT , MOTION FOR JUDGMENT
 COMPANY ET AL ON THE PLEADINGS
 1-8-15 [[54](#)]
- LISA HOLDER/Atty. for mv.
 ORDER RESCHEDULING 1/20/15,
 RESPONSIVE PLEADING

Based on the respondent's ex parte motion for a continuance and the parties' subsequent stipulation to a second continuance, this matter has been rescheduled to February 26, 2015, at 2:30 p.m. in Fresno. If the respondents, for any reason, are still not able to file their responsive pleading then the court will treat the rescheduled hearing date as a scheduling conference and will fix a firm date by which the respondents will be required to file their response to the issues raised in the motion. No appearance is necessary.

3. [12-15446](#)-B-7 M. DEAN GARDNER
[12-1167](#)
AJSD BAKERSFIELD, LLC V.
GARDNER
EDNA WENNING/Atty. for pl.

CONTINUED STATUS CONFERENCE RE:
AMENDED COMPLAINT
1-24-13 [[16](#)]

Based on the defendant's status report, it appears 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 60 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.

4. [12-15446](#)-B-7 M. DEAN GARDNER
[12-1167](#)
AJSD BAKERSFIELD, LLC V.
GARDNER

CONTINUED ORDER TO SHOW CAUSE
REGARDING DISMISSAL OF
ADVERSARY PROCEEDING
6-3-14 [[53](#)]

Based on the defendant's status report, this matter will be dropped from calendar without a disposition to be reset at a later date if necessary. No appearance is necessary.

5. [14-13358](#)-B-7 THOMAS BRILL
[14-1126](#)
RODRIGUEZ V. BRILL
MARTA RODRIGUEZ/Atty. for pl.
RESPONSIVE PLEADING
AMENDED COMPLAINT FILED
1/29/15

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
10-24-14 [[1](#)]

6. [10-16183](#)-B-7 SALMA AGHA

SALMA AGHA/MV

MOTION TO DISQUALIFY KLEIN
DENATALE GOLDNER LAW FIRM FROM
REPRESENTING DEFENDANT TRUSTEE
VETTER
12-31-14 [[149](#)]

WILLIAM CUMMING/Atty. for dbt.
RESPONSIVE PLEADING

7. [10-16183](#)-B-7 SALMA AGHA

SALMA AGHA/MV
WILLIAM CUMMING/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO STOP CONTINUOUS
DOCKET FRAUD PERPETRATION
12-31-14 [[156](#)]

8. [10-16183](#)-B-7 SALMA AGHA
SALMA AGHA/MV
WILLIAM CUMMING/Atty. for dbt.
MOTION RE: RESUBMISSION
1-6-15 [[169](#)]
9. [10-16183](#)-B-7 SALMA AGHA
[13-1086](#)
AGHA V. CITIMORTGAGE, INC. ET
AL
SALMA AGHA/Atty. for mv.
MOTION RE: RESUBMISSION
1-6-15 [[202](#)]
10. [10-16183](#)-B-7 SALMA AGHA
[13-1086](#)
AGHA V. CITIMORTGAGE, INC. ET
AL
SALMA AGHA/Atty. for mv.
RESPONSIVE PLEADING
MOTION TO STOP CONTINUOUS
DOCKET FRAUD PERPETRATION
12-31-14 [[185](#)]
11. [10-16183](#)-B-7 SALMA AGHA
[13-1086](#)
AGHA V. CITIMORTGAGE, INC. ET
AL
SALMA AGHA/Atty. for mv.
RESPONSIVE PLEADING
MOTION TO DISQUALIFY KLEIN
DENATALE GOLDNER LAW FIRM FROM
REPRESENTING DEFENDANT TRUSTEE
VETTER
12-31-14 [[174](#)]
12. [10-16183](#)-B-7 SALMA AGHA
[13-1086](#) AAB-2
AGHA V. CITIMORTGAGE, INC. ET
AL
MEAGAN TOM/Atty. for mv.
RESPONSIVE PLEADING
CONTINUED MOTION TO DISMISS
ADVERSARY PROCEEDING/NOTICE OF
REMOVAL
10-28-14 [[123](#)]
13. [10-16183](#)-B-7 SALMA AGHA
[13-1086](#) PD-2
AGHA V. CITIMORTGAGE, INC. ET
AL
EDDIE JIMENEZ/Atty. for mv.
RESPONSIVE PLEADING
CONTINUED MOTION TO DISMISS
ADVERSARY PROCEEDING/NOTICE OF
REMOVAL
11-17-14 [[134](#)]

14. [10-16183](#)-B-7 SALMA AGHA
[14-1155](#)
AGHA V. THE UNITED STATES OF
AMERICA ET AL

SALMA AGHA/Atty. for mv.
RESPONSIVE PLEADING

MOTION TO DISQUALIFY KLEIN
DENATALE GOLDNER LAW FIRM FROM
REPRESENTING DEFENDANT TRUSTEE
VETTER
12-31-14 [[9](#)]

This matter will be dropped from calendar without a disposition. This adversary proceeding has been withdrawn to the U.S. District Court by order of Chief Judge Morrison England. This court no longer has jurisdiction over the adversary proceeding. Any future pleadings and motions in this adversary proceeding must be filed in the U.S. District Court Case No. 1:15-cv-00042-AWI and set for hearing according to the local rules and procedures of the District Court. The court will enter a civil minute order. No appearance is necessary.

15. [10-16183](#)-B-7 SALMA AGHA
[14-1155](#)
AGHA V. THE UNITED STATES OF
AMERICA ET AL
SALMA AGHA/Atty. for mv.
RESPONSIVE PLEADING

MOTION TO STOP CONTINUOUS
DOCKET FRAUD PERPETRATION
12-31-14 [[16](#)]

This matter will be dropped from calendar without a disposition. This adversary proceeding has been withdrawn to the U.S. District Court by order of Chief Judge Morrison England. This court no longer has jurisdiction over the adversary proceeding. Any future pleadings and motions in this adversary proceeding must be filed in the U.S. District Court Case No. 1:15-cv-00042-AWI and set for hearing according to the local rules and procedures of the District Court. The court will enter a civil minute order. No appearance is necessary.

16. [14-13285](#)-B-7 JEFFREY/LINDSAY KERR
[14-1128](#) THA-1
RIVER RAIL COMMUNITY FEDERAL
CREDIT UNION V. KERR ET AL
THOMAS ARMSTRONG/Atty. for mv.

MOTION FOR ENTRY OF DEFAULT
JUDGMENT
1-7-15 [[16](#)]

17. [13-10692](#)-B-7 LUDOVICO PEREZ
[14-1116](#)
MAURICIO'S GRILL AND CANTINA,
INC. V. PEREZ
KERI BLAND/Atty. for pl.

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
9-30-14 [[1](#)]

18. [13-10692](#)-B-7 LUDOVICO PEREZ
[14-1116](#) PWG-1
MAURICIO'S GRILL AND CANTINA,
INC. V. PEREZ
PHILLIP GILLET/Atty. for mv.
RESPONSIVE PLEADING

MOTION TO DISMISS ADVERSARY
PROCEEDING/NOTICE OF REMOVAL
12-17-14 [[15](#)]

9:30 A.M.

1. [14-15940](#)-B-7 JOSE VILLALOBOS

RESCHEDULED HEARING RE: PRO SE
REAFFIRMATION AGREEMENT WITH
CHEVRON VALLEY CREDIT UNION
1-5-15 [[16](#)]

ORDER 1/15/15

2. [14-14378](#)-B-7 RAMON CARMONA

RESCHEDULED HEARING RE:
REAFFIRMATION AGREEMENT WITH
ALLY BANK
12-22-14 [[25](#)]

REBECCA TOMILOWITZ/Atty. for dbt.
ORDER 1/15/15

The court intends to deny approval of this reaffirmation agreement. The debtor's attorney signed the reaffirmation agreement certifying that she has explained the agreement to the debtor, but did not check the box to state an opinion that the reaffirmed debt will not create an undue hardship. 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.

10:00 A.M.

1. [14-15310](#)-B-7 JOEL PONCE AND ERLINDA MOTION TO AVOID LIEN OF
PK-1 GARIBAY SPRINGLEAF FINANCIAL SERVICES,
JOEL PONCE/MV INC.
1-8-15 [[11](#)]
PATRICK KAVANAGH/Atty. for dbt.

This matter will be continued to March 5, 2015, at 10:00 a.m., for supplemental evidence. The debtors shall file a copy of the security agreement and lien to be avoided showing specifically what items of personal property the motion relates to. The secured claim is not listed in schedule D and the personal property collateral described in the debtors' supporting declaration is not listed in schedule B. The court will prepare a minute order. No appearance is necessary.

2. [14-13821](#)-B-7 HENRY/PAULA REED MOTION TO SELL
RP-1 1-8-15 [[26](#)]
RANDELL PARKER/MV
STEVEN ALPERT/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 moving party shall submit a proposed order. No appearance is necessary.

3. [09-16426](#)-B-7 CHRISTOPHER/JOLENE MOTION TO AVOID LIEN OF
PK-2 FORZETTING FINANCIAL CREDIT NETWORK, INC.
CHRISTOPHER FORZETTING/MV 12-31-14 [[23](#)]
PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING

Based on the respondent's opposition, this matter will be continued to March 5, 2015, at 10:00 a.m. 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.

4. [05-14537](#)-B-7 STEVEN SMITH
PWG-11
STEVEN SMITH/MV
PHILLIP GILLET/Atty. for dbt.

MOTION TO AVOID LIEN OF CAPITAL
ONE FINANCIAL CORP.
1-22-15 [[72](#)]

This matter will be continued to March 5, 2015, at 10:00 a.m. The judgment lien appears to be against the debtor only. The debtors shall file a copy of the deed or other evidence to show the nature of the debtor's interest in the Clara Ct. Property as of June 2005 when the judgment lien was recorded. The judgment lien is not avoidable unless the debtor held, at that time, an interest in the subject property to which the judgment lien would have attached. *Farrey v. Sanderfoot*, 111 S.Ct. 667. The court will prepare a minute order. No appearance is necessary.

5. [05-14537](#)-B-7 STEVEN SMITH
PWG-12
STEVEN SMITH/MV
PHILLIP GILLET/Atty. for dbt.

MOTION TO AVOID LIEN OF ACCESS
CAPITAL SERVICES, INC.
1-22-15 [[77](#)]

This matter will be continued to March 5, 2015, at 10:00 a.m. The judgment lien appears to be against both the debtor and the co-debtor. The debtors shall file a copy of the deed or other evidence to show the nature of the debtor's and co-debtors' interest in the Clara Ct. Property as of March 2005 when the judgment lien was recorded. The judgment lien is not avoidable unless the debtor and the co-debtor held, at that time, an interest in the subject property to which the judgment lien would have attached. *Farrey v. Sanderfoot*, 111 S.Ct. 667. The court will prepare a minute order. No appearance is necessary.

6. [05-14537](#)-B-7 STEVEN SMITH
PWG-13
STEVEN SMITH/MV
PHILLIP GILLET/Atty. for dbt.

MOTION TO AVOID LIEN OF
CITIBANK (SOUTH DAKOTA) N.A.
1-22-15 [[82](#)]

This matter will be continued to March 5, 2015, at 10:00 a.m. The judgment lien appears to be against the co-debtor only. The debtors shall file a copy of the deed or other evidence to show the nature of the co-debtor's interest in the Clara Ct. Property as of September 2004 when the judgment lien was recorded. The judgment lien is not avoidable unless the co-debtor held, at that time, an interest in the subject property to which the judgment lien would have attached. *Farrey v. Sanderfoot*, 111 S.Ct. 667. The court will prepare a minute order. No appearance is necessary.

7. [14-14548](#)-B-7 JUSTIN SULVETTA MOTION TO SELL
JMV-2 1-5-15 [[30](#)]
JEFFREY VETTER/MV
DAVID HAGEN/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 moving party shall submit a proposed order. No appearance is necessary.

8. [11-15450](#)-B-7 RAMON GALO MOTION TO AVOID LIEN OF MIDLAND
RSW-2 FUNDING LLC
RAMON GALO/MV 1-22-15 [[20](#)]
ROBERT WILLIAMS/Atty. for dbt.

9. [12-19457](#)-B-7 LYDIA FLEMING MOTION TO AVOID LIEN OF UNIFUND
PWG-4 CCR PARTNERS
LYDIA FLEMING/MV 1-19-15 [[43](#)]
R. BELL/Atty. for dbt.

10. [11-60967](#)-B-7 GABRIEL BLAIS MOTION TO SELL
PWG-2 1-18-15 [[104](#)]
GABRIEL BLAIS/MV
PHILLIP GILLET/Atty. for dbt.

11. [13-17189](#)-B-7 DAVID/CAROLYN WATSON MOTION TO AVOID LIEN OF MAIN
PK-1 STREET ACQUISITION CORP.
DAVID WATSON/MV 12-30-14 [[42](#)]
PATRICK KAVANAGH/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.

10:30 A.M.

1.	14-14549 -B-7	MICHAEL/TERRI ELLINGTON	MOTION FOR RELIEF FROM
	APN-1		AUTOMATIC STAY
	EXETER FINANCE CORP./MV		12-29-14 [15]
	NEIL SCHWARTZ/Atty. for dbt.		
	AUSTIN NAGEL/Atty. for mv.		
	DISCHARGED		

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.	14-13677 -B-7	DANNY SANCHEZ AND KIM	MOTION FOR RELIEF FROM
	NLG-1	WIESE SANCHEZ	AUTOMATIC STAY
	SETERUS, INC./MV		12-16-14 [28]
	DAVID LOZANO/Atty. for dbt.		
	NICHOLE GLOWIN/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.

3. [14-14877](#)-B-7 FRANCIS FITZGERALD
APN-1
COMPASS BANK/MV
ASHTON DUNN/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
12-30-14 [[15](#)]

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.

1:30 P.M.

DUE TO A SCHEDULING CONFLICT, JUDGE LEE WILL NOT BE IN COURT FOR THE 1:30 CALENDAR. The courtroom deputy, Jennifer Dauer, will be present to assist with the rescheduling of any matters that have not been predisposed or which may require a further hearing. Further hearings may be set in either Fresno or on the March 5, 2015, Bakersfield calendar. Unless the parties appear and request a further hearing, or a different ruling, the predispositions below will be entered into the record as final rulings for this calendar.

1. [11-11906](#)-B-13 TAMARA SCHULTZ
MHM-2
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.
WITHDRAWN
MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
12-8-14 [[87](#)]

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

2. [11-60509](#)-B-13 JIMMY/WANDA JAMES
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
WITHDRAWN
MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
12-9-14 [[131](#)]

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

3. [14-13509](#)-B-13 BEATRIZ AGUILAR
RSW-1
BEATRIZ AGUILAR/MV
ROBERT WILLIAMS/Atty. for dbt.
MOTION TO MODIFY PLAN
12-24-14 [[24](#)]

This matter was noticed as a preliminary hearing and therefore cannot be resolved without an opportunity for oral argument. Unless a party in interest appears in opposition to the motion, the motion will be granted and the moving party may submit a proposed order. If there is any opposition, the matter will be continued and set for a final hearing at 1:30 p.m. on March 5, 2015. Supplemental briefs, or a statement of unresolved issues, should be filed not later than February 26, 2015.

4. [14-15612](#)-B-13 PHILIP/SUSANNE ICARDO
RSW-2
PHILIP ICARDO/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING
MOTION TO CONFIRM PLAN
12-23-14 [[23](#)]

This matter will be continued to April 9, 2015, at 1:30 p.m. The chapter 13 trustee has not yet concluded the meeting of creditors. The court will prepare a minute order. No appearance is necessary.

5. [13-17013](#)-B-13 PHILLIP/MELISSA AVALOS MOTION TO DISMISS CASE FOR
MHM-2 FAILURE TO MAKE PLAN PAYMENTS
MICHAEL MEYER/MV 12-10-14 [[57](#)]
PATRICK KAVANAGH/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. The evidence shows there is a material default of the confirmed plan which has not been cured. 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. [09-14514](#)-B-13 JOSE/LAURA GARCIA OBJECTION TO DISCHARGE BY
MHM-1 MICHAEL H. MEYER
MICHAEL MEYER/MV 11-26-14 [[109](#)]
ROBERT WILLIAMS/Atty. for dbt.
WITHDRAWN

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

7. [14-12417](#)-B-13 JOHN/MARGIE VALENZUELA MOTION TO MODIFY PLAN
RSW-2 12-24-14 [[49](#)]
JOHN VALENZUELA/MV
ROBERT WILLIAMS/Atty. for dbt.

This matter was noticed as a preliminary hearing and therefore cannot be resolved without an opportunity for oral argument. Unless a party in interest appears in opposition to the motion, the motion will be granted and the moving party may submit a proposed order. If there is any opposition, the matter will be continued and set for a final hearing at 1:30 p.m. on March 5, 2015. Supplemental briefs, or a statement of unresolved issues, should be filed not later than February 26, 2015.

8. [14-14826](#)-B-13 SOO LEE CONTINUED OBJECTION TO
HANMI BANK/MV CONFIRMATION OF PLAN BY
CREDITOR HANMI BANK
11-5-14 [[29](#)]
PATRICK KAVANAGH/Atty. for dbt.
WILLIAM KIM/Atty. for mv.
RESPONSIVE PLEADING

It appears from the debtor's status report that this matter has been settled. Accordingly, the hearing will be dropped from calendar and may be reset by either party on 14 days notice if necessary. If the objection requires a further hearing for any reason, the court will set the matter for an early trial. No appearance is necessary.

9. [13-12829](#)-B-13 MARIO/DEANA MEDINA
MHM-1
MICHAEL MEYER/MV
STEVEN ALPERT/Atty. for dbt.
RESPONSIVE PLEADING
- MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
12-11-14 [[50](#)]

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules. The evidence shows there is a material default in the confirmed plan which has not been cured. The responsive pleading was not supported by evidence and has now been withdrawn. The motion to dismiss the case 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.

10. [10-16330](#)-B-13 FRANK/ELIZABETH CASTRO
MHM-1
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.
WITHDRAWN
- OBJECTION TO CLAIM OF CHASE
HOME FINANCE, CLAIM NUMBER 10-2
12-1-14 [[132](#)]

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

11. [10-11134](#)-B-13 JOHN/BEVERLY RABANAL
MHM-1
MICHAEL MEYER/MV
WILLIAM OLCOTT/Atty. for dbt.
WITHDRAWN
- MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
12-8-14 [[52](#)]

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

12. [14-14734](#)-B-13 JAMES ZOPPE
- ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
12-30-14 [[34](#)]

Unless the last two filing fee installment payments are paid in full before the hearing, this matter will be continued to March 5, 2015, at 1:30 p.m., to be heard with the trustee's motion to dismiss. The court will prepare a minute order. If the payments are made, this motion will be dropped from calendar. No appearance is necessary.

13. [14-14734](#)-B-13 JAMES ZOPPE
MHM-1
MICHAEL MEYER/MV
- MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
12-23-14 [[29](#)]

This matter will be continued to March 5, 2015, at 1:30 p.m. The court will prepare a minute order. No appearance is necessary.

14. [14-15646](#)-B-13 CRAIG/SAUNDRA PETTYJOHN
MHM-1

OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
1-15-15 [[26](#)]

PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING

This matter will be continued and set for a final hearing on March 5, 2015, at 1:30 p.m. Any supplemental pleadings or statement of unresolved issues should be filed and served by February 26, 2015. The court will prepare a minute order. No appearance is necessary.

15. [14-15646](#)-B-13 CRAIG/SAUNDRA PETTYJOHN
PK-1
CRAIG PETTYJOHN/MV
PATRICK KAVANAGH/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
NAVY FEDERAL CREDIT UNION
12-22-14 [[20](#)]

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 \$ 8,050. 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.

16. [14-11849](#)-B-13 CHERYL ZUZON LOPEZ
MHM-2
MICHAEL MEYER/MV
D. GARDNER/Atty. for dbt.

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
12-9-14 [[54](#)]

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules and there is no opposition. The evidence shows there is a material default in the confirmed plan which has not been cured. 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.

17. [09-18050](#)-B-13 HENRY/REBECCA REVELES
RSW-9
HENRY REVELES/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO INCUR DEBT
1-9-15 [[124](#)]

This matter will be dropped from calendar as moot. The case has been closed and court authorization to purchase an automobile is no longer required. No appearance is necessary.

18. [14-13850](#)-B-13 LAWSON/DIANNA SMITH
MHM-2
MICHAEL MEYER/MV

MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
12-2-14 [[30](#)]

PHILLIP GILLET/Atty. for dbt.
RESPONSIVE PLEADING

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules. Based on the evidence, the debtors have failed to timely file a modified plan in compliance with the court's October 1, 2014, civil minute order. The responsive pleading is not supported by evidence and offers no explanation for the delay. Accordingly, unless the trustee appears and agrees to withdraw the motion, the motion to dismiss the case 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.

19. [13-15657](#)-B-13 GARY SAMPLEY
MHM-1
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
12-9-14 [[98](#)]

This matter will be continued and set for a final hearing to February 12, 2015, at 1:30 p.m. in Fresno. Any supplemental pleadings or a statement of unresolved issues should be filed by February 9, 2015. The court will prepare a minute order. No appearance is necessary.

20. [11-16060](#)-B-13 JAMES/SANDRA BLOXOM
RSW-5
JAMES BLOXOM/MV

MOTION FOR CONSENT TO ENTER
INTO LOAN MODIFICATION
AGREEMENT
1-20-15 [[85](#)]

ROBERT WILLIAMS/Atty. for dbt.

This matter was noticed as a preliminary hearing and therefore cannot be resolved without an opportunity for oral argument. Unless a party in interest appears in opposition to the motion, the motion will be granted and the moving party may submit a proposed order. If there is any opposition, the matter will be continued and set for a final hearing at 1:30 p.m. on March 5, 2015. Supplemental briefs, or a statement of unresolved issues, should be filed not later than February 26, 2015.

If the motion is granted, the debtors will be authorized to enter into a mortgage modification agreement. However, the mortgage is provided for in class 1 of the confirmed chapter 13 plan and the order authorizing modification of the class 1 mortgage shall not be deemed to modify the confirmed plan. Any reduction or change in the plan payment to the chapter 13 trustee, or the trustee's payment to the mortgage company, will require an amended claim from the creditor or confirmation of a modified plan.

21. [12-12261](#)-B-13 ROEL/BERNADETTE GUINTO MOTION TO DISMISS CASE FOR
MHM-2 FAILURE TO MAKE PLAN PAYMENTS
MICHAEL MEYER/MV 12-10-14 [[79](#)]
D. GARDNER/Atty. for dbt.
MICHAEL MEYER/Atty. for mv.
WITHDRAWN

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

22. [11-61062](#)-B-13 STEVEN/TONYA RHODES MOTION TO DISMISS CASE FOR
MHM-2 FAILURE TO MAKE PLAN PAYMENTS
MICHAEL MEYER/MV 12-10-14 [[94](#)]
NIMA VOKSHORI/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. The evidence shows there is a material default in the confirmed plan which has not been cured. 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.

23. [14-13862](#)-B-13 MARK JOSEPH OBJECTION TO CONFIRMATION OF
MHM-1 PLAN BY TRUSTEE MICHAEL H.
MEYER
1-15-15 [[35](#)]
ROBERT WILLIAMS/Atty. for dbt.
WITHDRAWN

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

24. [14-15363](#)-B-13 ERNIE/CHERRY POPOY
PWG-1
ERNIE POPOY/MV

MOTION TO VALUE COLLATERAL OF
KERN SCHOOLS FEDERAL CREDIT
UNION
1-22-15 [[25](#)]

PHILLIP GILLET/Atty. for dbt.

This matter was noticed as a preliminary hearing and therefore cannot be resolved without an opportunity for oral argument. Unless a party in interest appears in opposition to the motion, the motion to value the collateral for a consensual lien against real property will be granted for cause shown. Based on the evidence offered in support of the motion, the respondent's junior priority mortgage claim will be found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtors 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 debtors shall submit a proposed order consistent with this ruling.

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.

If there is any opposition to the motion to value the collateral, the matter will be continued and set for a final hearing at 1:30 p.m., on March 5, 2015. Supplemental briefs, or a statement of unresolved issues, should be filed not later than February 26, 2015. The matter will be deemed to be a contested matter and, pursuant to FRBP 9014(c), the federal rules of discovery apply to contested matters. The debtors 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.

25. [11-17278](#)-B-13 EDWARD/MARY JONES
PK-5
EDWARD JONES/MV
PATRICK KAVANAGH/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
RESURGENT CAPITAL SERVICES LP
1-8-15 [[112](#)]

The motion will be denied without prejudice. No appearance is necessary. The holder of this mortgage claim appears to be Anson Street, LLC. The record does not establish that the motion was served on Anson Street, LLC, in compliance with Federal Rule of Bankruptcy Procedure 7004(b)(1) (service on an individual), 7004(b)(3) (corporation, partnership or unincorporated association) or 7004(h) (FDIC Insured Depository Institution). *In re Villar*, 317 B.R. 88 (9th Cir. BAP 2004). Information regarding service on a corporation may be obtained from the California Secretary of State's Internet Website, see <http://kepler.sos.ca.gov/>. For a directory of FDIC Insured Institutions, see <http://www3.fdic.gov/idasp/main.asp>. Litigants are encouraged to attach a copy of their information source (web page, etc.) to the proof of service to assist the court in evaluating compliance with Rule 7004.

26. [14-15878](#)-B-13 GORDON/DEBI LAIRD
RSW-1
GORDON LAIRD/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
SAFE 1 CREDIT UNION
1-21-15 [[16](#)]

This matter was noticed as a preliminary hearing and therefore cannot be resolved without an opportunity for oral argument. Unless a party in interest appears in opposition to the motion, the motion to value respondent's collateral will be granted for cause shown. Based on the evidence presented, the respondent's secured claim will be fixed at \$8,069. 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.

If there is any opposition, the matter will be continued and set for a final hearing at 1:30 p.m. on March 5, 2015, and will be deemed to be a contested matter. Supplemental briefs, or a statement of unresolved issues, should be filed not later than February 26, 2015. Pursuant to FRBP 9014(c), the federal rules of discovery apply to contested matters. The debtors 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.

27. [14-14683](#)-B-13 SHERLYN BULL
MHM-1

OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
1-15-15 [[29](#)]

PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING

This matter will be continued and set for a final hearing on March 5, 2015, at 1:30 p.m. Any supplemental pleadings or statement of unresolved issues should be filed and served by February 26, 2015. The court will prepare a minute order. No appearance is necessary.

28. [14-15387](#)-B-13 LIEZEL CAPELLAN
MHM-1
MICHAEL MEYER/MV

MOTION TO DISMISS CASE
12-16-14 [[40](#)]

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules and there is no opposition. The petition was filed November 4, 2014. The evidence shows that there has been unreasonable delay in that the debtor has failed to serve and set for hearing a confirmable plan. Accordingly, unless the trustee appears and agrees to withdraw the motion, the motion to dismiss the case 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.

29. [14-15387](#)-B-13 LIEZEL CAPELLAN
SC-2
PARKVIEW EDGE PROPERTIES,
LLC/MV
SAM CHANDRA/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
1-8-15 [[46](#)]

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. Stay relief will be retroactive to November 4, 2014, the date the petition was filed.

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.

30. [11-60992](#)-B-13 ELDON/NAOMI ECKELS
PLC-5
ELDON ECKELS/MV

MOTION FOR ORDER WAIVING
DEBTOR'S 11 USC 1328
CERTIFICATE
1-7-15 [[88](#)]

PETER CIANCHETTA/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 moving party shall submit a proposed order. No appearance is necessary.

31. [12-13294](#)-B-13 RODOLFO/PATRICIA SERAFICA
MHM-2
MICHAEL MEYER/MV
PATRICK KAVANAGH/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
12-10-14 [[108](#)]

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

32. [14-15496](#)-B-13 NADER HADDAD
TGF-1
THE PROBATE ESTATE OF WAYNE
LEE VAUGHN, SR./MV
PATRICK KAVANAGH/Atty. for dbt.
VINCENT GORSKI/Atty. for mv.
RESPONSIVE PLEADING

OBJECTION TO CONFIRMATION OF
PLAN BY THE PROBATE ESTATE OF
WAYNE LEE VAUGHN, SR.
1-15-15 [[27](#)]

This matter will be continued and set for a final hearing on March 5, 2015, at 1:30 p.m. Any supplemental pleadings or statement of unresolved issues should be filed and served by February 26, 2015. The court will prepare a minute order. No appearance is necessary.

If Carriage Homes still holds the underlying promissory note for this mortgage, then that promissory note is property of the Carriage Homes bankruptcy estate. This court cannot resolve, in this case, a dispute over ownership of the note between the debtor, the probate estate, and Carriage Homes' bankruptcy trustee. Resolution of such a dispute will require an adversary proceeding in the Carriage Homes bankruptcy case.

If Carriage Homes' chapter 7 trustee holds the underlying promissory note for the debtor's mortgage, and if the probate estate merely holds the deed of trust as collateral for another loan made to Carriage Homes, then the probate estate cannot collect the mortgage payments otherwise due to Carriage Homes without, at a minimum, relief from the automatic stay in the Carriage Homes' bankruptcy case.

33. [11-62197](#)-B-13 RAND/BARBARA VADNAIS
MHM-4
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
12-10-14 [[68](#)]

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

34. [14-14098](#)-B-13 DONNA MACNEIL
PLG-3
DONNA MACNEIL/MV
STEVEN ALPERT/Atty. for dbt.

MOTION TO CONFIRM PLAN
12-8-14 [[42](#)]

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.