

**UNITED STATES BANKRUPTCY COURT
Eastern District of California**

Honorable Christopher D. Jaime
1200 I Street, Suite 200
Modesto, California

PRE-HEARING DISPOSITIONS COVER SHEET

DAY: TUESDAY

DATE: March 29, 2022

CALENDAR: 1:00 P.M. CHAPTER 13

Each matter on this calendar will have one of three possible designations: No Ruling, Tentative Ruling, or Final Ruling. These instructions apply to those designations.

No Ruling: All parties will need to appear at the hearing unless otherwise ordered.

Tentative Ruling: If a matter has been designated as a tentative ruling it will be called. The court may continue the hearing on the matter, set a briefing schedule, or enter other orders appropriate for efficient and proper resolution of the matter. The original moving or objecting party shall give notice of the continued hearing date and the deadlines. The minutes of the hearing will be the court's findings and conclusions.

Final Ruling: Unless otherwise ordered, there will be no hearing on these matters and no appearance is necessary. The final disposition of the matter is set forth in the ruling and it will appear in the minutes. The final ruling may or may not finally adjudicate the matter. If it is finally adjudicated, the minutes constitute the court's findings and conclusions.

Orders: Unless the court specifies in the tentative or final ruling that it will issue an order, the prevailing party shall lodge an order within seven (7) days of the final hearing on the matter.

Eastern District of California

Honorable Christopher D. Jaime
Bankruptcy Judge
Modesto, California

March 29, 2022 at 1:00 p.m.

1. [22-90034](#)-B-13 LATONYA TYLER-GUILFORD ORDER TO SHOW CAUSE - FAILURE
Pro Se TO PAY FEES
2-17-22 [[15](#)]
DEBTOR DISMISSED: 2/22/22

Final Ruling

The case was dismissed on February 22, 2022. The case having previously been dismissed, the Order to Show Cause is discharged as moot with no sanctions ordered.

The order to show cause is ORDERED DISCHARGED AS MOOT for reasons stated in the minutes.

The court will issue an order.

2. [21-90535](#)-B-13 EDUARDO BARAJAS AND ERIKA ORDER TO SHOW CAUSE - FAILURE
 HERRERA TO PAY FEES
 T. Mark O'Toole 2-14-22 [[34](#)]

Final Ruling

The court's decision is to discharge the Order to Show Cause and the case will remain pending.

The Order to Show Cause was issued due to Debtors' failure to pay \$78.00 due February 7, 2022. The court's docket reflects that the default was cured on February 16, 2022. The payment constituted the final installment.

The order to show cause is ORDERED DISCHARGED for reasons stated in the minutes and the case SHALL REMAIN PENDING.

The court will issue an order.

3. [22-90052](#)-B-13 GREGORY/VALISA NASH
Pro Se

NOTICE OF INTENT TO DISMISS
CASE
2-15-22 [[3](#)]

Final Ruling

The motion has been set for hearing on 28-days notice. Local Bankruptcy Rule 9014-1(f)(1). The failure of the respondent and other parties in interest to file written opposition at least 14 days prior to the hearing as required by Local Bankruptcy Rule 9014-1(f)(1)(B) is considered to be the equivalent of a statement of nonopposition. *Cf. Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). No opposition was filed. The matter will be resolved without oral argument. No appearance at the hearing is required.

The court's decision is to **continue the motion to dismiss case to April 26, 2022 at 1:00 p.m.**

A Notice of Incomplete Filing or Filing of Outdated Forms and Notice of Intent to Dismiss Case if Documents are Not Timely Filed was issued on February 15, 2022. Although the pro se Debtors did not file these forms, nor did they file a chapter 13 plan for confirmation, Creditor U.S. Bank Trust National Association has filed a Statement of Issue at dkt. 14, asking the court to delay the dismissal of this case to a date after the court has heard and ruled on the Creditor's forthcoming Motion for In Rem Relief from Automatic Stay.

Creditor has yet to file the Motion for In Rem Relief from Automatic Stay, however according to their Statement of Issue, Creditor believes their Motion will show that the filing of this case is part of a scheme to delay, hinder, or defraud them that involves multiple, successive bankruptcy filings and an unauthorized Deed of Trust affecting the real property located at 1336 Phlox Drive, Patterson, California, 95363 ("Property"). In December 2006, Debtors executed a deed of trust encumbering the Property, as security for a loan. In November 2020, Creditor recorded a Notice of Default in Stanislaus County, stating the loan secured by the Property was in default since September 2019, and that as of the date of the Notice of Default, the amount in default was \$40,679.92. Creditors subsequently recorded a Notice of Trustee's Sale, scheduling a foreclosure sale of the Property for May 12, 2021. On or about May 7, 2021, Debtors executed a short form deed of trust and assignment of rents in which they purport to grant an interest in the Property to Georgina Frost. Since that date, there have been four separate bankruptcy cases filed in nine months affecting the Property, with three cases filed by Debtors and one by Georgina Frost, the beneficiary of the short form deed of trust and assignment of rents. All three cases prior to the instant case were dismissed for failure to file documents.

Although cause exists to dismiss this case, it appears, based on the prior bankruptcy cases which were also dismissed for the same reasons (failure to file documents), that these cases have been filed to keep the automatic stay in place. Debtors have not met even the basic requirements of filing in these cases. As such, the court will continue the motion until April 26, 2022, at 1:00 p.m. Creditor U.S. Bank National Trust Association is to file and serve their Motion for In Rem Relief by April 5, 2022. Any opposition to Creditor's motion is to be filed and served by April 12, 2022, and any reply from Creditor to any opposition is to be filed and served by April 19, 2022.

The motion is ORDERED CONTINUED to April 26, 2022 at 1:00 p.m. for reasons stated in the minutes.

The court will issue an order.