

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Wednesday, April 2, 2014
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.

1:30 P.M.

1. [13-13902](#)-B-13 FABIOLA GARAY
TGF-3
FABIOLA GARAY/MV

VINCENT GORSKI/Atty. for dbt.

CONTINUED MOTION TO VALUE
COLLATERAL OF SELF HELP
ENTERPRISES
2-12-14 [[38](#)]
2. [12-19404](#)-B-13 ANNA CATALAN
PLG-2
ANNA CATALAN/MV
D. HARELIK/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO MODIFY PLAN
1-7-14 [[38](#)]

This matter will be dropped from calender. The debtor has withdrawn her proposed modified plan. No appearance is necessary.

3. [10-18021](#)-B-13 BRYANT/PATRICIA WISHEROPP
WDO-2
BRYANT WISHEROPP/MV
WILLIAM OLCOTT/Atty. for dbt.

MOTION TO MODIFY PLAN
1-31-14 [[57](#)]
4. [13-15726](#)-B-13 KEVIN/KATY CARSON
JLM-1
KEVIN CARSON/MV
ROBERT WILLIAMS/Atty. for dbt.
JANET MERTES/Atty. for mv.
RESPONSIVE PLEADING

CONTINUED MOTION TO VALUE
COLLATERAL OF PNC BANK, N.A.
12-17-13 [[46](#)]
5. [13-17427](#)-B-13 MICHAEL/LISA PITCHER
LKW-1
LEONARD WELSH/MV

LEONARD WELSH/Atty. for dbt.

MOTION FOR COMPENSATION FOR
LEONARD K. WELSH, DEBTOR'S
ATTORNEY(S),
2-27-14 [[19](#)]

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. [11-12331](#)-B-13 ARTEMIO/JASMIN LUCAS
PWG-3
PHILLIP GILLET/MV

PHILLIP GILLET/Atty. for dbt.
RESPONSIVE PLEADING

MOTION FOR COMPENSATION FOR
PHILLIP W. GILLET JR., DEBTOR'S
ATTORNEY(S),
2-23-14 [[73](#)]
7. [13-16734](#)-B-13 PAUL BAIZE
MMA-1
PAUL BAIZE/MV
MARK ALONSO/Atty. for dbt.

MOTION TO CONFIRM PLAN
1-23-14 [[32](#)]

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. [13-12436](#)-B-13 TODD/DENETTE WESTBROOK
RSW-2
TODD WESTBROOK/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
2-24-14 [[45](#)]
9. [13-18038](#)-B-13 MARK MOORE AND TAMILEE
RSW-1 DERINGTON-MOORE
MARK MOORE/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO VALUE COLLATERAL OF
FINANCE AND THRIFT
3-13-14 [[34](#)]

If this case is not dismissed on the 2:00 p.m. calendar, then this matter will be consolidated with the creditor's objection to confirmation (DC#SAS-1) and continued for discovery to April 30, 2014, at 1:30 p.m. If the case is dismissed, this matter will be dropped from calendar.

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.

10. [13-18038](#)-B-13 MARK MOORE AND TAMILEE MOTION TO VALUE COLLATERAL OF
RSW-2 DERINGTON-MOORE HP SEARS FOR DISCOUNT MOTORS
MARK MOORE/MV 3-13-14 [[38](#)]
ROBERT WILLIAMS/Atty. for dbt.

This matter will be trailed to the 2:00 p.m. calendar and called after the trustee's motion to dismiss. No appearance is necessary at 1:30 p.m.

11. [10-17451](#)-B-13 ROBERT/ROSANNE GEPHART MOTION TO MODIFY PLAN
RSW-2 2-13-14 [[42](#)]
ROBERT GEPHART/MV
ROBERT WILLIAMS/Atty. for dbt.
12. [13-15357](#)-B-13 CARL/DELAINA BLACK MOTION FOR RELIEF FROM
RDN-1 AUTOMATIC STAY
HSBC BANK USA, NATIONAL 2-28-14 [[54](#)]
ASSOCIATION/MV
RANDALL NAIMAN/Atty. for mv.
13. [13-15657](#)-B-13 GARY SAMPLEY CONTINUED MOTION FOR
PK-3 COMPENSATION FOR PATRICK
PATRICK KAVANAGH/MV KAVANAGH, DEBTOR'S ATTORNEY(S)
2-7-14 [[57](#)]

PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING, ORDER
SIGNED 3/7/14

This matter will be dropped from calendar. The court has already signed an order approving these fees and costs. No appearance is necessary.

14. [13-15657](#)-B-13 GARY SAMPLEY MOTION TO SELL FREE AND CLEAR
PK-4 OF LIENS
GARY SAMPLEY/MV 3-5-14 [[64](#)]
PATRICK KAVANAGH/Atty. for dbt.
STIPULATION FILED 3/6/14
15. [13-15260](#)-B-13 KARON METTLER MOTION FOR COMPENSATION FOR
SJS-1 SUSAN J. SALEHI, DEBTOR'S
SUSAN SALEHI/MV ATTORNEY(S)
2-22-14 [[22](#)]

SUSAN SALEHI/Atty. for dbt.

This matter will be continued to April 30, 2014, at 1:30 p.m. The exhibits referred to in the motion are not attached.

In addition, there is no proof of service to show the moving papers were served on anybody.

Finally, the motion was filed without admissible supporting evidence as required by Local Rule 9014-1(d)(6). No appearance is necessary.

16. [13-16065](#)-B-13 WILLIAM/SHIRLEY EAST MOTION TO CONFIRM PLAN
RSW-3 2-21-14 [[28](#)]
WILLIAM EAST/MV
ROBERT WILLIAMS/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. [11-17873](#)-B-13 KEVIN/TONIA MAXWELL CONTINUED MOTION TO MODIFY PLAN
RSW-5 1-22-14 [[102](#)]
KEVIN MAXWELL/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

18. [13-15478](#)-B-13 FRANCISCO/ROSA PEREZ MOTION TO CONFIRM PLAN
RSW-5 1-31-14 [[40](#)]
FRANCISCO PEREZ/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

19. [14-10381](#)-B-13 CAROLYN MINER MOTION FOR RELIEF FROM
RDN-1 AUTOMATIC STAY
JPMORGAN CHASE BANK, NATIONAL 2-20-14 [[22](#)]
ASSOCIATION/MV
RANDALL NAIMAN/Atty. for mv.

This matter will be trailed to the 2:00 p.m. calendar and called after the trustee's motion to dismiss. No appearance is necessary at 1:30 p.m.

20. [14-10284](#)-B-13 GENE MELCHERS OBJECTION TO CONFIRMATION OF
JHW-1 PLAN BY AMERICREDIT FINANCIAL
AMERICREDIT FINANCIAL SERVICES, INC. 2-19-14 [[16](#)]
SERVICES, INC./MV
JOEL FEINSTEIN/Atty. for dbt.
JENNIFER WANG/Atty. for mv.
DISMISSED

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

21. [11-16487](#)-B-13 ALVARO/YOLANDA MEDINA
RSW-5
ALVARO MEDINA/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO APPROVE LOAN
MODIFICATION
3-7-14 [[53](#)]

22. [11-14291](#)-B-13 CURTIS/CAROLYN CRAIG
DMG-8
CURTIS CRAIG/MV
D. GARDNER/Atty. for dbt.
WITHDRAWN, CASE DISMISSED

MOTION TO SELL AND/OR MOTION TO
INCUR DEBT
2-14-14 [[83](#)]

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

23. [11-11099](#)-B-13 BENJAMIN/NANCY VEGA
NLG-1
NATIONSTAR MORTGAGE LLC/MV
PHILLIP GILLET/Atty. for dbt.
NICHOLE GLOWIN/Atty. for mv.

MOTION TO APPROVE LOAN
MODIFICATION
2-7-14 [[63](#)]

This matter was fully noticed in compliance with the Local Rules and there is no opposition. The motion will be granted without oral argument. The court does not approve or disapprove the terms of a mortgage modification outside of a chapter 13 plan. See *In re Wofford*, 449 B.R. 362 (Bankr. W.D. Wis. 2011). However, the court will authorize the debtors to enter into a modification agreement on terms to be negotiated between the debtors and the mortgagee so long as modification of the mortgage does not interfere with the debtors' duties and trustee's administration of the chapter 13 plan.

The moving party's request for clarification of relief regarding the automatic stay will be denied as moot. The secured claim relating to this collateral is provided for in Class 4 of the debtors' confirmed chapter 13 plan. Upon confirmation of the chapter 13 plan, the automatic stay was modified for this claim with regard to the collateral so long as this case remains in chapter 13. The moving party shall submit a proposed order. No appearance is necessary.

2:00 P.M.

1. [13-16017](#)-B-13 JOSE/LUCY ROSAS
MHM-1
MICHAEL MEYER/MV
- MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
2-21-14 [[61](#)]

NEIL SCHWARTZ/Atty. for dbt.

This matter will be continued to April 30, 2014, at 1:30 p.m., to be called with the debtors' motion to confirm a modified plan. The court will prepare a minute order. No appearance is necessary.

2. [13-18038](#)-B-13 MARK MOORE AND TAMILEE
MHM-1 DERINGTON-MOORE
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.
- MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
2-27-14 [[26](#)]
3. [13-18038](#)-B-13 MARK MOORE AND TAMILEE
SAS-1 DERINGTON-MOORE
FINANCE AND THRIFT COMPANY/MV
- CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY FINANCE
AND THRIFT COMPANY
2-12-14 [[21](#)]
- ROBERT WILLIAMS/Atty. for dbt.
STEVEN SILVER/Atty. for mv.

If this case is not dismissed on the trustee's motion above, then this matter will be consolidated with the debtors' motion to value collateral (DC# RSW-1) and continued to April 30, 2014, at 1:30 p.m. for discovery. If the case is dismissed then this matter will be dropped from calendar.

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. [14-10381](#)-B-13 CAROLYN MINER
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
3-10-14 [[46](#)]
5. [13-17292](#)-B-13 DEWAYNE MORRIS
MHM-1
MICHAEL MEYER/MV
RABIN POURNAZARIAN/Atty. for dbt.
- MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
2-27-14 [[36](#)]

6. [13-17292](#)-B-13 DEWAYNE MORRIS
MHM-2
MICHAEL MEYER/MV

RABIN POURNAZARIAN/Atty. for dbt.

MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
3-7-14 [[40](#)]