

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto
Hearing Date: Wednesday, April 13, 2016
Place: Department B – Courtroom #13
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.

9:30

1. [15-14801](#)-B-7 DAVID ESCALANTE
MJA-1
DAVID ESCALANTE/MV
MICHAEL ARNOLD/Atty. for dbt.

MOTION TO CONVERT CASE FROM
CHAPTER 7 TO CHAPTER 13
3-3-16 [[24](#)]

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 case will be converted to chapter 13. The court will enter a civil minute order. No appearance is necessary.

2. [15-14801](#)-B-7 DAVID ESCALANTE
RHT-1
ROBERT HAWKINS/MV
MICHAEL ARNOLD/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.
RESPONSIVE PLEADING

CONTINUED OBJECTION TO DEBTOR'S
CLAIM OF EXEMPTIONS
1-27-16 [[14](#)]

The chapter 7 trustee's objection will be overruled as moot. The case will be converted to chapter 13 on the debtor's unopposed motion above and any objection to exemptions will be a matter for the chapter 13 trustee. No appearance is necessary.

3. [16-10003](#)-B-7 MELLANIE RAPOZO
EAT-1
DEUTSCHE BANK NATIONAL TRUST
COMPANY/MV
MELLANIE MARSHALL/Atty. for dbt.
DARLENE VIGIL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-15-16 [[24](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The debtor(s) default will be entered and 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 California Civil Code 2923.5 to the extent that it applies. If the notice and motion requested a waiver of Federal Rules of Bankruptcy Procedure 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.

4. [16-10104](#)-B-7 YOLANDA MARTINEZ
EPE-1
YOLANDA MARTINEZ/MV
ERIC ESCAMILLA/Atty. for dbt.

MOTION TO COMPEL ABANDONMENT
3-10-16 [[21](#)]

5. [16-10512](#)-B-7 JOHN/LINDI JORDAN
CJO-1
THE BANK OF NEW YORK MELLON/MV
GARY HOOD/Atty. for dbt.
CHRISTINA O/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
3-16-16 [[13](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The debtor(s) default will be entered and 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 California Civil Code 2923.5 to the extent that it applies. If the notice and motion requested a waiver of Federal Rules of Bankruptcy Procedure 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.

6. [15-13932](#)-B-7 VICTOR PASNICK
RHT-2
ROBERT HAWKINS/MV

MOTION TO COMPROMISE
CONTROVERSY/APPROVE SETTLEMENT
AGREEMENT WITH CAROL
BRECKENRIDGE, DUSTIN PASNICK,
AND PLATTE RIVER PARTNERS LLC
3-10-16 [[51](#)]

PETER FEAR/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.

This motion to compromise a controversy and approve a settlement 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 court is making no finding either express or implied that the estate has an interest in Bergman's claims in the UFTA action. The moving party shall submit a proposed order. No appearance is necessary.

7. [16-10142](#)-B-7 MICHAEL/STEPHANIE
TMT-1 FEDERICO

OPPOSITION RE: TRUSTEE'S MOTION
TO DISMISS FOR FAILURE TO
APPEAR AT SEC. 341(A) MEETING
OF CREDITORS
3-2-16 [[15](#)]

No appearance is necessary. The debtors shall attend the meeting of creditors rescheduled for April 25, 2016, at 8:30 a.m. If the debtors fail to do so, the chapter 7 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

The time prescribed in Rules 1017(e)(1) and 4004(a) for the chapter 7 trustee and the U.S. Trustee to object to the debtor(s) discharge or to move for dismissal of the case under section 707(b) is extended to 60 days after the conclusion of the meeting of creditors.

8. [16-10545](#)-B-7 VICTORIA MEJIA

VICTORIA MEJIA/MV

VICTORIA MEJIA/Atty. for mv.
RESPONSIVE PLEADING
WITHDRAWN

MOTION FOR WAIVER OF THE
CHAPTER 7 FILING FEE OR OTHER
FEE
2-25-16 [[5](#)]

The application for a waiver of the chapter 7 filing fee will be granted. The trustee's opposition been withdrawn. No appearance is necessary. The court will enter a civil minute order.

9. [16-10548](#)-B-7 MARK MARIN

MARK MARIN/MV

MARK MARIN/Atty. for mv.
RESPONSIVE PLEADING
WITHDRAWN

MOTION FOR WAIVER OF THE
CHAPTER 7 FILING FEE OR OTHER
FEE RE:
2-25-16 [[5](#)]

The application for a waiver of the chapter 7 filing fee will be granted. The trustee's opposition been withdrawn. No appearance is necessary. The court will enter a civil minute order.

10. [15-13455](#)-B-7 HIROAKI TERANISHI
TGM-2
PETER FEAR/MV
ROSALINA NUNEZ/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

OBJECTION TO DEBTOR'S CLAIM OF
EXEMPTIONS
3-9-16 [[62](#)]

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 objection will be sustained without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

11. [15-10763](#)-B-7 STEVE/CONSTANCE SANFORD
JES-2
JAMES SALVEN/MV

PETER FEAR/Atty. for dbt.

MOTION TO SELL AND/OR MOTION
FOR COMPENSATION FOR STRATEGIC
REALTY, BROKER(S)
3-3-16 [[22](#)]

12. [10-17476](#)-B-7 MARIA MEJIA
PBB-3
MARIA MEJIA/MV
PETER BUNTING/Atty. for dbt.

CONTINUED MOTION TO AVOID LIEN
OF VION HOLDINGS LLC
2-15-16 [[36](#)]

This matter was continued for submission of evidence to show that the debtor possessed an interest in the subject property to which the judgment lien could have attached at the time the judgment lien was recorded. *Farrey v. Sanderfoot*, 111 S.Ct. 667 (1991). Such evidence having been submitted, and the motion being fully noticed in compliance with the Local Rules without opposition, 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.

13. [15-14595](#)-B-7 STANLEY/ANITA NAVARRO
TMT-1
TRUDI MANFREDO/MV
GEOFFREY ADALIAN/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

MOTION TO SELL
3-9-16 [[17](#)]

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.

11:00 A.M.

1. [16-10227](#)-B-7 OSCAR/IRENE LOYA PRO SE REAFFIRMATION AGREEMENT
WITH GOLDEN 1 CREDIT UNION
3-28-16 [[16](#)]

2. [16-10229](#)-B-7 MONICA MEHIA PRO SE REAFFIRMATION AGREEMENT
WITH AMERICAN HONDA FINANCE
CORP.
3-22-16 [[16](#)]

3. [16-10345](#)-B-7 JOSHUA BANKSTON PRO SE REAFFIRMATION AGREEMENT
WITH FRESNO COUNTY FEDERAL
CREDIT UNION
3-17-16 [[11](#)]

1:30 P.M.

1. [15-13308](#)-B-7 WILLIAM BURNINGHAM STATUS CONFERENCE RE: COMPLAINT
[15-1142](#) 11-24-15 [[1](#)]
BURNINGHAM V. BURNINGHAM
MICHAEL GERMAIN/Atty. for pl.

By stipulation of the parties and order of the court this matter has been continued to June 15, 2016, at 1:30 p.m. The court is issuing an OSC re: dismissal for lack of prosecution to be heard on the same date and time. If the matter is finally resolved and the adversary proceeding terminated before that date, the OSC will be vacated. No appearance is necessary.

2. [16-10110](#)-B-7 KIO YOON STATUS CONFERENCE RE: COMPLAINT
[16-1023](#) 2-17-16 [[1](#)]
YOON V. WEST RIDGE RENTALS,
LLC ET AL
KIO YOON/Atty. for pl.

The status conference will be continued to April 27, 2016, at 9:30 a.m. to be heard with the trustee's motion to dismiss the case. No appearance is necessary.

3. [16-10112](#)-B-7 CHANG WOO STATUS CONFERENCE RE: COMPLAINT
[16-1024](#) 2-17-16 [[1](#)]
WOO V. WEST RIDGE RENTALS, LLC
ET AL
CHANG WOO/Atty. for pl.

The status conference will be continued to April 27, 2016, at 9:30 a.m. to be heard with the trustee's motion to dismiss the case. No appearance is necessary.

4. [16-10115](#)-B-7 KYOUNG HAN STATUS CONFERENCE RE: COMPLAINT
[16-1022](#) 2-17-16 [[1](#)]
HAN V. WEST RIDGE RENTALS, LLC
ET AL
KYOUNG HAN/Atty. for pl.

The status conference will be continued to April 27, 2016, at 9:30 a.m. to be heard with the trustee's motion to dismiss the case. No appearance is necessary.

5. [15-14225](#)-B-7 LETICIA CAMACHO
CARLOS GARCIA/MV
GLEN GATES/Atty. for dbt.
CYNTHIA ARROYO/Atty. for mv.
DISCHARGED, RESPONSIVE
PLEADING

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
12-23-15 [[15](#)]

Based on the status report filed by the plaintiff in the related adversary proceeding, this matter will be continued to May 25, 2016, at 1:30 p.m., to be heard with the continued status conference. The court adopts the previous 11 U.S.C. § 362(e) findings. No appearance is necessary.

6. [15-14225](#)-B-7 LETICIA CAMACHO
[16-1009](#)
CAMACHO V. GARCIA ET AL
GLEN GATES/Atty. for pl.

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
1-19-16 [[1](#)]

Based on the status report filed by the plaintiff this matter will be continued to May 25, 2016, at 1:30 p.m. A further status report shall be filed by May 18, 2016. No appearance is necessary.

The court notes that the use of a docket control number, GEG-1, is not appropriate in connection with the status report.

7. [15-14228](#)-B-13 OSCAR GUTIERREZ
CARLOS GARCIA/MV
GLEN GATES/Atty. for dbt.
CYNTHIA ARROYO/Atty. for mv.

CONTINUED MOTION FOR RELIEF
FROM AUTOMATIC STAY
12-23-15 [[21](#)]

Based on the status report filed by the plaintiff in the related adversary proceeding, this matter will be continued to May 25, 2016, at 1:30 p.m., to be heard with the continued status conference. The court adopts the previous U.S.C. § 362(e) findings. No appearance is necessary.

8. [15-14228](#)-B-13 OSCAR GUTIERREZ
[16-1010](#)
GUTIERREZ V. GARCIA ET AL
GLEN GATES/Atty. for pl.

CONTINUED STATUS CONFERENCE RE:
COMPLAINT
1-19-16 [[1](#)]

Based on the status report filed by the plaintiff this matter will be continued to May 25, 2016, at 1:30 p.m. A further status report shall be filed by May 18, 2016. No appearance is necessary.

The court notes that the use of a docket control number, GEG-1, is not appropriate in connection with the status report.

9. [11-61329](#)-B-7 SHERREY DEAVER
[16-1021](#)
U.S. TRUSTEE V. DEAVER
ROBIN TUBESING/Atty. for pl.

STATUS CONFERENCE RE: COMPLAINT
2-16-16 [[1](#)]

This matter will be dropped from calendar. The record shows that the defendant's default has been entered. No appearance is necessary.

10. [14-16135](#)-B-7 GILBERT FLORES
[15-1064](#)
FORD MOTOR CREDIT COMPANY V.
FLORES
AUSTIN NAGEL/Atty. for pl.

CONTINUED PRE-TRIAL CONFERENCE
RE: COMPLAINT
5-20-15 [[1](#)]

This matter will be dropped from calendar without a disposition. The court intends to grant the motion for summary judgment below. No appearance is necessary.

11. [14-16135](#)-B-7 GILBERT FLORES
[15-1064](#) APN-1
FORD MOTOR CREDIT COMPANY V.
FLORES
AUSTIN NAGEL/Atty. for mv.

MOTION FOR SUMMARY JUDGMENT
3-4-16 [[35](#)]

This matter was fully noticed in compliance with the Local Rules and there is no opposition. The allegations contained in the plaintiff's Request for Admissions are deemed admitted. The Admissions can be relied upon and establish the claim in the amount of \$24,281.23 plus costs. In addition the well-pled facts in the complaint are supported by the Didur declaration and the record even without considering the debtor's Admissions.

The debtor completed his credit counseling on May 7, 2014. Seven months later he listed a monthly income of \$8,000 in a credit application submitted to the plaintiff, which loaned the debtor \$47,076.09 at 12.49% interest for the purchase the vehicle that is the subject of this complaint. Only nine days after this purchase the debtor filed his bankruptcy petition, schedules and documents, under penalty of perjury, in which he stated that he had no current income nor had any income during the prior two years.

Accordingly, the defendant's default will be entered and the motion for summary judgment will be granted without oral argument for cause shown. The plaintiff shall submit a proposed order granting the motion and a separate judgement. No appearance is necessary.

12. [15-14169](#)-B-13 MICHELLE AVILA
[15-1157](#) UST-1
U.S. TRUSTEE V. AVILA
ROBIN TUBESING/Atty. for mv.

CONTINUED MOTION FOR ENTRY OF
DEFAULT JUDGMENT
2-10-16 [[10](#)]

13. [13-10692](#)-B-7 LUDOVICO PEREZ
[14-1116](#) BB-4
MAURICIO'S GRILL AND CANTINA,
INC. V. PEREZ
KERI BLAND/Atty. for mv.

MOTION FOR ENTRY OF DEFAULT
JUDGMENT
3-17-16 [[122](#)]