

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable René Lastreto
Hearing Date: Thursday, April 14, 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 A.M.

1. [15-14685](#)-B-11 B&L EQUIPMENT RENTALS, CONTINUED STATUS CONFERENCE RE:
INC. CHAPTER 11 VOLUNTARY PETITION
11-30-15 [[1](#)]

LEONARD WELSH/Atty. for dbt.
ORDER 2/18/16 CONTINUING TO
4/28

This matter has been rescheduled by order to April 28, 2016, at 9:30 a.m.
No appearance is necessary.

1:30 P.M.

1. [15-14800](#)-B-13 RICHARD LIMA
ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-21-16 [[40](#)]

2. [16-10309](#)-B-13 MILO/LEANN HODGES
KLF-1
GREENWICH CAPITAL FINANCIAL
PRODUCTS, INC./MV
SCOTT LYONS/Atty. for dbt.
MICHAEL KOGAN/Atty. for mv.
OBJECTION TO CONFIRMATION OF
PLAN BY GREENWICH CAPITAL
FINANCIAL PRODUCTS, INC.
2-29-16 [[14](#)]

3. [16-10312](#)-B-13 JACKIE/MARIA WEECE
AP-1
WELLS FARGO BANK, N.A./MV
SCOTT LYONS/Atty. for dbt.
JONATHAN CAHILL/Atty. for mv.
OBJECTION TO CONFIRMATION OF
PLAN BY WELLS FARGO BANK, N.A.
3-29-16 [[29](#)]

This matter will be continued to May 20, 2016, at 9:30 a.m. The trustee has not yet concluded the meeting of creditors and by prior order of the court, the trustee has another 7 days after completion of the creditors' meeting to file his objection to the plan. The court will prepare and enter a civil minute order. No appearance is necessary.

In addition, the form of the proof of service does not comply with Local Bankruptcy Rule 9014-1(d)(2) and/or 9004-1 and needs to be amended (see Local Rules, Appendix II, EDC.002-901, Revised Guidelines for the Preparation of Documents (5)).

The court will prepare and enter a civil minute order. No appearance is necessary.

4. [16-10014](#)-B-13 BRENT SCHAIBLE
DRJ-3
BRENT SCHAIBLE/MV
DAVID JENKINS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
BANK OF AMERICA, NA
3-3-16 [[22](#)]

This motion to value the collateral for a consensual lien against real property 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 offered in support of the motion, the respondent's junior priority mortgage claim is 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. If the chapter 13 plan has not 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. No appearance is necessary.

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.

5. [14-11321](#)-B-13 RONALD/LEANNA BUYS
MHM-1
MICHAEL MEYER/MV
PETER BUNTING/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO DISMISS
CASE
1-14-16 [[55](#)]

This motion will be denied without prejudice. The court intends to grant the unopposed motion below to confirm the debtors' modified plan. The modified plan appears to address the issues raised in the motion to dismiss. No appearance is necessary.

6. [14-11321](#)-B-13 RONALD/LEANNA BUYS
PBB-5
RONALD BUYS/MV
PETER BUNTING/Atty. for dbt.

MOTION TO MODIFY PLAN
3-9-16 [[64](#)]

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 debtors 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.

7. [13-12622](#)-B-13 ALONZO/LEA PADILLA MOTION TO MODIFY PLAN
BCS-3 3-1-16 [[38](#)]
ALONZO PADILLA/MV
BENJAMIN SHEIN/Atty. for dbt.
RESPONSIVE PLEADING

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules. Based on the debtors' response to the trustee's objection, the motion will be granted without oral argument for cause shown. The record shows that an amended confirmation order that incorporates the amending language has been signed by the debtors. The trustee shall submit the order. No appearance is necessary.

8. [11-63323](#)-B-13 JOHANNA CORDOVA MOTION TO DISMISS CASE
MHM-1 3-3-16 [[70](#)]
MICHAEL MEYER/MV
STEPHEN LABIAK/Atty. for dbt.
WITHDRAWN

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

9. [16-10133](#)-B-13 JESUS JUAREZ MOTION TO DISMISS CASE
MHM-1 3-10-16 [[16](#)]
MICHAEL MEYER/MV
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

10. [13-11337](#)-B-13 GREGORY/KARAN CARVER MOTION TO DISMISS CASE
MHM-3 3-3-16 [[49](#)]
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.
WITHDRAWN

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

11. [16-10639](#)-B-13 HAROLD THORNTON CONTINUED MOTION TO EXTEND
HDN-2 AUTOMATIC STAY
HAROLD THORNTON/MV 3-24-16 [[23](#)]
HENRY NUNEZ/Atty. for dbt.

12. [13-14140](#)-B-13 JIM/PAMILA HESTILY CONTINUED MOTION TO DISMISS
MHM-1 CASE
MICHAEL MEYER/MV 2-8-16 [[46](#)]
STEPHEN LABIAK/Atty. for dbt.
RESPONSIVE PLEADING

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

13. [13-14140](#)-B-13 JIM/PAMILA HESTILY
SL-3
JIM HESTILY/MV
STEPHEN LABIAK/Atty. for dbt.
AMENDED PLAN WITHDRAWN

MOTION TO MODIFY PLAN
2-29-16 [[53](#)]

The motion to modify the chapter 13 plan has been withdrawn. No appearance in this matter is necessary.

14. [13-12642](#)-B-13 MARIA VELARDE-GARCIA
MHM-1
MICHAEL MEYER/MV
PETER BUNTING/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO DISMISS CASE
3-3-16 [[27](#)]

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

15. [15-13742](#)-B-13 ANTONIO/MARIA NAVARRO
MHM-1
MICHAEL MEYER/MV
BARBARA SMART/Atty. for dbt.

CONTINUED MOTION TO DISMISS
CASE
1-4-16 [[65](#)]

This matter was continued to be heard with the motion to confirm a chapter 13 plan below. Based on the predisposition in that matter below the trustee's motion to dismiss the case will be granted. The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules and there is no opposition. There is no chapter 13 plan confirmation pending. Accordingly, the respondents' default will be entered and the motion will be granted without oral argument. The case will be dismissed for cause shown. The court will prepare and enter a civil minute order. No appearance is necessary.

16. [15-13742](#)-B-13 ANTONIO/MARIA NAVARRO
SLS-7
ANTONIO NAVARRO/MV
BARBARA SMART/Atty. for dbt.

AMENDED MOTION TO CONFIRM PLAN
2-23-16 [[89](#)]

This motion will be denied. The motion to confirm a plan was filed February 23, 2016. On the same date a notice of hearing was filed setting the hearing date for this calendar. Document number 92, also filed that day, is a certificate of service for the moving papers and the plan showing that they were served only on the chapter 13 trustee, the U.S. Trustee, and Ocwen Loan Servicing, LLC, which filed a request for special notice. The moving papers were not served on all of the creditors as required by the Bankruptcy Code. Although the certificate refers to an attached list, there was no list of creditors attached to the certificate of service.

On March 4, 2016, document number 97, captioned "Withdrawal of Docket Item 92," was filed and which stated: "I hereby withdraw docket item 92, Certificate/Proof of Service, filed on February 23, 2016. The PDF documents filed were incomplete."

Document number 98, captioned Proof of Service Withdrawal of Docket Item 92, was filed on the same date and shows that the withdrawal was served on the chapter 13 trustee, the U.S. Trustee, and Ocwen Loan Servicing, LLC. Although the certificate of service referred to an attached list of parties, no such list was attached to the certificate of service.

On the same date the clerk's office docketed number 99, a list of names and addresses for this case, as "Support Document Re 98 Certificate/Proof of Service [SLS-7] Filed by Debtor. Accordingly, there is nothing in the record to show that the plan was served on all creditors as required by FRBP 2002(b) and LBR 3015-1(d) (1) and 3015-1(c) (3). No appearance is necessary.

17. [12-17145](#)-B-13 DAVID/LISA PINA
MHM-2
MICHAEL MEYER/MV
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO DISMISS CASE
3-3-16 [[68](#)]

The chapter 13 trustee's motion to dismiss was fully noticed in compliance with the Local Rules and there is no timely opposition. The debtors filed a late opposition stating their intention to file and set for hearing a modified plan to address the payment default.

The trustee's motion was filed March 3, 2016, and opposition was due on or before March 31. The debtors' opposition was filed on April 12, two days prior to the hearing and no amended plan or confirmation hearing appears on the docket as of the date of this predisposition. Further, no request was made by the debtors for leave to file a late opposition. Accordingly, unless the trustee withdraws this motion, the case will be dismissed.

18. [15-14646](#)-B-13 RANDAL/GRETTA STUDY
TRM-59
DIAMOND RESORTS CALIFORNIA
COLLECTION DEPARTMENT, LLC/MV
D. GARDNER/Atty. for dbt.
THOMAS MULALLY/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
3-16-16 [[50](#)]

This motion for relief from stay was fully noticed in compliance with the Local Rules and there was no opposition. The debtors' 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.

The court notes that the plan does not appear to have been separately filed on the docket as required by LR 3015-1(d).

No appearance is necessary.

19. [16-10148](#)-B-13 DEBORAH GIRARD
MHM-1
MICHAEL MEYER/MV
JERRY LOWE/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE
3-11-16 [[22](#)]

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

20. [15-14849](#)-B-13 FREDERICK SOLMS AND
FW-1 CONNIE HILL
FREDERICK SOLMS/MV
PETER FEAR/Atty. for dbt.
ORDER APPROVING STIPULATION

MOTION TO VALUE COLLATERAL OF
ALLY BANK
3-15-16 [[29](#)]

The matter has been resolved by stipulation of the parties and order of the court entered March 29, 2016. No appearance is necessary.

21. [15-14849](#)-B-13 FREDERICK SOLMS AND CONTINUED OBJECTION TO
SW-1 CONNIE HILL CONFIRMATION OF PLAN BY ALLY
ALLY BANK/MV BANK
2-1-16 [[15](#)]

PETER FEAR/Atty. for dbt.
TORIANA HOLMES/Atty. for mv.
ORDER APPROVING STIPULATION

The matter has been resolved by stipulation of the parties and order of the court entered March 29, 2016. No appearance is necessary.

22. [12-17850](#)-B-13 DALIA FAUNI MOTION TO DISMISS CASE
MHM-2 3-3-16 [[37](#)]
MICHAEL MEYER/MV
GARY HUSS/Atty. for dbt.
WITHDRAWN

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

23. [16-10358](#)-B-13 ADAM/CHRISTINA RAMIREZ ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-15-16 [[29](#)]

24. [16-10361](#)-B-13 LODGERIO/ANTONIA JORGE OBJECTION TO CONFIRMATION OF
BRT-1 PLAN BY STEARNS LENDING, LLC
STEARNS LENDING, LLC/MV 3-3-16 [[14](#)]
STEVEN ALPERT/Atty. for dbt.
BRIAN TRAN/Atty. for mv.

This matter will be continued to May 20, 2016, at 9:30 a.m. The trustee has not yet concluded the meeting of creditors and by prior order of the court, the trustee has another 7 days after completion of the creditors' meeting to file his objection to the plan. The court will prepare and enter a civil minute order. No appearance is necessary.

25. [16-10168](#)-B-13 MOISES TURCIOS CONTINUED MOTION TO DISMISS
MHM-1 CASE
MICHAEL MEYER/MV 3-8-16 [[30](#)]
PATRICK KAVANAGH/Atty. for dbt.
RESPONSIVE PLEADING

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

26. [16-10468](#)-B-13 FRED/ANNA VALDEZ

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
3-25-16 [[16](#)]

SCOTT LYONS/Atty. for dbt.
FIRST INSTALLMENT PAID
4/4/16

This matter will be continued to April 28, 2016, at 1:30 p.m. If the debtors are current on their installment payments the OSC will be vacated. If the debtors are not current as of the continued hearing date then the case will be dismissed without further notice. No appearance is necessary.

27. [16-10169](#)-B-13 FRANK/MARY ANNE DORES

MOTION FOR AN ORDER MODIFYING
SUBPOENA
3-25-16 [[96](#)]

FW-2
FRANK DORES/MV
PETER FEAR/Atty. for dbt.
ORDER RESCHEDULING TO
4/18/16

This matter has been rescheduled by stipulation of the parties and order of the court to a specially set date and time on April 18, 2016, at 2:00 p.m. No appearance is necessary.

28. [11-18972](#)-B-13 GREG/DIANA SIMERAL

CONTINUED MOTION TO MODIFY PLAN
1-25-16 [[33](#)]

PLG-1
GREG SIMERAL/MV
RABIN POURNAZARIAN/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 debtors 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.

29. [12-15092](#)-B-13 SAMUEL/ROSA ESQUEDA

MOTION TO DISMISS CASE
3-3-16 [[31](#)]

MHM-1
MICHAEL MEYER/MV
PETER BUNTING/Atty. for dbt.
WITHDRAWN

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

30. [15-14993](#)-B-13 FERNANDO/SELENA RAZO MOTION TO DISMISS CASE
MHM-2 3-11-16 [[34](#)]
MICHAEL MEYER/MV
JERRY LOWE/Atty. for dbt.
RESPONSIVE PLEADING

No appearance is necessary. The debtors shall attend the meeting of creditors rescheduled for April 12, 2016, at 10:00 a.m. If the debtors fail to do so, the chapter 13 trustee may file a declaration with a proposed order and the case may be dismissed without a further hearing.

31. [16-10294](#)-B-13 LINA CONTRERAS OBJECTION TO CONFIRMATION OF
AP-1 PLAN BY WELLS FARGO BANK, NA
WELLS FARGO BANK, NA/MV 3-29-16 [[33](#)]
WILLIAM ROMAINE/Atty. for dbt.
JONATHAN CAHILL/Atty. for mv.

This matter will be continued to May 20, 2016, at 1:30 p.m. The trustee has not yet concluded the meeting of creditors and by prior order of the court, the trustee has another 7 days after completion of the creditors' meeting to file his objection to the plan. The court will prepare and enter a civil minute order. No appearance is necessary.

32. [13-15896](#)-B-13 KAREN SHARPE CONTINUED MOTION FOR
BCS-3 COMPENSATION BY THE LAW OFFICE
OF SHEIN LAW GROUP, PC FOR
BENJAMIN C. SHEIN, DEBTORS
ATTORNEY(S)
3-3-16 [[56](#)]

BENJAMIN SHEIN/Atty. for dbt.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Based on the applicant's declaration, his client has not responded to his inquiries and so he has been unable to obtain approval of the fees. For this motion only the court will waive the requirement of client consent. Accordingly, the respondent(s) default will be entered and the motion will be granted without oral argument for cause shown. The applicant shall submit a proposed order. No appearance is necessary.

33. [15-11896](#)-B-13 CHRISTINE WOODS CONTINUED MOTION TO DISMISS
MHM-2 CASE
MICHAEL MEYER/MV 1-27-16 [[87](#)]
DAVID JENKINS/Atty. for dbt.
WITHDRAWN

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