

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable W. Richard Lee  
Hearing Date: Wednesday, June 11, 2014  
Place: Department B – Courtroom #12  
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.

9:00 A.M.

1. [14-11011](#)-B-7 DAVID SANCHEZ AND ANDREA MOTION FOR ENTRY OF DEFAULT  
[14-1034](#) ORTEGA TCS-1 JUDGMENT  
 SANCHEZ V. GCFS, INC 5-14-14 [[12](#)]  
 TIMOTHY SPRINGER/Atty. for mv.

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 plaintiff may submit a proposed judgment in the amount of \$786.75. The plaintiff will be awarded its costs of suit. The request for an award of attorney's fees will be denied. The plaintiff cites no authority for the recovery of attorney's fees in a preference action. No appearance is necessary.

2. [13-15254](#)-B-13 JERAL RICHARDSON MOTION TO DISMISS ADVERSARY  
[14-1014](#) JMA-5 PROCEEDING/NOTICE OF REMOVAL  
RICHARDSON V. RICHARDSON ET AL 4-18-14 [[16](#)]  
MICHAEL ARNOLD/Atty. for mv.

- |    |                                      |             |                                      |
|----|--------------------------------------|-------------|--------------------------------------|
| 3. | <a href="#"><u>13-17157</u></a> -B-7 | LUIZ SOARES | MOTION FOR ENTRY OF DEFAULT          |
|    | <a href="#"><u>14-1017</u></a>       | JWC-3       | JUDGMENT                             |
|    | TRANSPORT FUNDING, LLC V.            |             | 5-2-14 [ <a href="#"><u>19</u></a> ] |
|    | SOARES                               |             |                                      |
|    | JENNIFER CRASTZ/Att’y. for mv.       |             |                                      |

This is a Bakersfield case. On April 24, 2014, the court reissued the summons and set a status conference on July 3, 2014, in Bakersfield. Accordingly, this matter will be rescheduled for hearing in Bakersfield on July 3, 2014, at 9:00 a.m. The plaintiff shall file supplemental points and authorities to support its contention that the sale or disposition of plaintiff's collateral constitute embezzlement under applicable California law. No appearance is necessary.

10:00 A.M.

1. [14-11605](#)-B-7 CHRISTINA GIBSON  
JES-1

OPPOSITION RE: TRUSTEE'S MOTION  
TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING  
OF CREDITORS  
5-13-14 [[42](#)]

MARK ZIMMERMAN/Atty. for dbt.  
CASE DISMISSED

2. [13-11923](#)-B-7 JOSH/SANDRA SOARES  
PFT-1  
PETER FEAR/MV  
DAVID JENKINS/Atty. for dbt.  
PETER FEAR/Atty. for mv.

MOTION TO SELL  
5-7-14 [[17](#)]

**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.**

3. [14-11440](#)-B-7 SARAH CROWDERY

ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
5-15-14 [[48](#)]

WILLIAM ROMAINE/Atty. for dbt.

4. [13-17945](#)-B-7 JOSE/VERONICA VASQUEZ  
PBB-2  
JOSE VASQUEZ/MV  
PETER BUNTING/Atty. for dbt.

MOTION TO AVOID LIEN OF FIRST  
NATIONAL BANK OF OMAHA  
5-8-14 [[26](#)]

**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.**

5. [14-10347](#)-B-7 MARIA MENDIVIL  
RHT-3  
ROBERT HAWKINS/MV  
ROBERT HAWKINS/Atty. for mv.

MOTION TO SELL  
5-7-14 [[41](#)]

**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. [12-60054](#)-B-7 DWIGHT/NELLIE LONG

MOTION TO SELL FREE AND CLEAR

RHT-11  
ROBERT HAWKINS/MV  
LAYNE HAYDEN/Atty. for dbt.  
ROBERT HAWKINS/Atty. for mv.

OF LIENS AND/OR MOTION TO PAY  
5-15-14 [[133](#)]

7. [13-17257](#)-B-7 MARY MORENO  
TCS-1  
MARY MORENO/MV  
TIMOTHY SPRINGER/Atty. for dbt.

MOTION TO INCUR DEBT  
5-26-14 [[34](#)]

8. [11-61965](#)-B-7 G.R. ELLIOTT  
JTW-2 CONSTRUCTION, INC.  
JANZEN, TAMBERI & WONG/MV  
  
JUSTIN HARRIS/Atty. for dbt.

MOTION FOR COMPENSATION FOR  
JANZEN, TAMBERI & WONG,  
ACCOUNTANT(S).  
5-14-14 [[78](#)]

**This motion will be continued to June 25, 2014, at 10:00 a.m., for supplemental evidence. The applicant was employed to serve as the chapter 7 trustee's accountant. The trustee has not yet filed his final report. Based on the evidence presented in support of the motion, the court cannot tell if the applicant's services are concluded and cannot evaluate the necessity, reasonableness, and benefit of the applicant's services. No appearance is necessary.**

9. [11-61965](#)-B-7 G.R. ELLIOTT  
PLF-3 CONSTRUCTION, INC.  
  
JUSTIN HARRIS/Atty. for dbt.

MOTION FOR COMPENSATION FOR  
PETER L. FEAR, TRUSTEE'S  
ATTORNEY(S).  
5-14-14 [[71](#)]

**This motion will be continued to June 25, 2014, at 10:00 a.m., for supplemental evidence. The applicant was employed to serve as the chapter 7 trustee's general counsel. The trustee has not yet filed his final report. Based on the evidence presented in support of the motion, the court cannot tell if the applicant's services are concluded and cannot evaluate the necessity, reasonableness, and benefit of the applicant's services. No appearance is necessary.**

10. [14-11070](#)-B-7 RICK DORRITY AND REBECCA MOTION TO DISMISS REBECCA ANN  
GGL-1 MCDANIEL MCDANIEL  
RICK DORRITY/MV 5-12-14 [[18](#)]  
GEORGE LOGAN/Atty. for dbt.

**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. This chapter 7 case will be dismissed as to co-debtor Rebecca Ann McDaniel. The court will enter a civil minute order. No appearance is necessary.**

11. [14-11070](#)-B-7 RICK DORRITY AND REBECCA MOTION TO DISMISS CASE  
UST-1 MCDANIEL 5-9-14 [[13](#)]  
TRACY DAVIS/MV  
GEORGE LOGAN/Atty. for dbt.  
ROBIN TUBESING/Atty. for mv.  
RESPONSIVE PLEADING

**This motion will be denied. The U.S. Trustee requests dismissal of the entire case because the joint debtors are not legally married. However, in the ruling above the court has dismissed the co-debtor, Rebecca Ann McDaniel, and the defect appears to be cured. No appearance is necessary.**

12. [14-11371](#)-B-7 RAMON OCHOA MOTION TO DISMISS FOR FAILURE  
TO APPEAR AT THE 341A MEETING  
OF CREDITORS, MOTION TO DISMISS  
CASE, MOTION TO EXTEND DEADLINE  
TO FILE A COMPLAINT OBJECTING  
TO DISCHARGE OF THE DEBTOR ,  
MOTION TO EXTEND TIME TO FILE A  
MOTION TO DISMISS CASE UNDER  
SEC. 707(B)  
5-5-14 [[18](#)]

TRUDI MANFREDO/Atty. for mv.

**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 case will be dismissed. The court will enter a civil minute order. No appearance is necessary.**

13. [09-62372](#)-B-7 ZANE/EVA HAMMOND MOTION TO COMPROMISE  
RLF-3 CONTROVERSY/APPROVE SETTLEMENT  
JAMES SALVEN/MV AGREEMENT WITH SOUTH FRESNO  
HOUSING AND/OR MOTION TO  
COMPROMISE CONTROVERSY/APPROVE  
SETTLEMENT AGREEMENT WITH  
HAMMOND  
5-13-14 [[79](#)]

RANDY RISNER/Atty. for dbt.  
JAMES SALVEN/Atty. for mv.

**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.**

14. [14-11680](#)-B-7 ANNIE HOLT  
SAA-1  
ANNIE HOLT/MV  
STEVEN ALPERT/Atty. for dbt.

MOTION FOR REDEMPTION  
5-2-14 [[11](#)]

**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.**

15. [14-11395](#)-B-7 CHRISTINE LOBERG  
TMT-1  
TRUDI MANFREDO/MV

MOTION TO DISMISS CASE AND/OR  
MOTION TO EXTEND DEADLINE TO  
FILE A COMPLAINT OBJECTING TO  
DISCHARGE OF THE DEBTOR  
5-5-14 [[11](#)]

RICK BANKS/Atty. for dbt.  
TRUDI MANFREDO/Atty. for mv.

**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 case will be dismissed. The court will enter a civil minute order. No appearance is necessary.**

16. [14-12719](#)-A-7 ESTHER MANNING  
AG-1  
ESTHER MANNING/MV  
ALBERT GARCIA/Atty. for dbt.

MOTION TO EXTEND AUTOMATIC STAY  
6-2-14 [[12](#)]

**This is a Department A case. This matter has been rescheduled to Department A at 9:00 a.m. No appearance is necessary in Department B.**

17. 13-17341-B-7 HOWARD SAGASER  
WFH-6  
SHERYL STRAIN/MV  
HAGOP BEDOYAN/Atty. for dbt.  
DANIEL EGAN/Atty. for mv.  
OST 6/9/14

MOTION FOR EXAMINATION AND FOR  
PRODUCTION OF DOCUMENTS  
6-6-14 [ 414 ]

10:30 A.M.

1. [13-10002](#)-B-7 SANDRA HARRIS  
SMK-1  
NEW ERA FARM SERVICE, INC./MV  
DAVID JENKINS/Atty. for dbt.  
STEVEN KOCH/Atty. for mv.  
DISCHARGED

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
4-29-14 [[81](#)]

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.

2. [14-10607](#)-B-7 ABRAHAM/GABRIELA VALENCIA MOTION FOR RELIEF FROM  
LET-1 AUTOMATIC STAY  
U.S. BANK, NATIONAL 5-7-14 [[22](#)]  
ASSOCIATION/MV  
LAUREN TEW/Atty. for mv.

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. 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. [14-11432](#)-B-7 RICHARD/JENNIFER MOTION FOR RELIEF FROM  
PPR-1 PATTERSON AUTOMATIC STAY  
BANK OF AMERICA, N.A./MV 5-2-14 [[14](#)]  
MARK ZIMMERMAN/Atty. for dbt.  
JOSEPH GARIBYAN/Atty. for mv.



4. [14-12154](#)-B-7 DEL/LESLIE BARTON  
PD-1  
QUICKEN LOANS INC./MV  
ALFRED GALLEGOS/Atty. for dbt.  
JONATHAN CAHILL/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
5-9-14 [[10](#)]

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. 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.

5. [14-10257](#)-B-7 JOVAN BROWN  
JCW-1  
FIRST MORTGAGE CORPORATION/MV  
WILLIAM COLLIER/Atty. for dbt.  
JENNIFER WONG/Atty. for mv.  
DISCHARGED

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
5-13-14 [[19](#)]

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.

6. [14-12468](#)-B-7 JORGE RENTERIA AND BLANCA  
SW-1 REYNOSO DE ESPARZA  
ALLY BANK/MV  
ALBERT GARCIA/Atty. for dbt.  
TORIANA HOLMES/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
5-20-14 [[11](#)]

7. [12-14281](#)-B-7 ANTONIO/DOLORES AGUIRRE MOTION FOR RELIEF FROM  
RMD-1 AUTOMATIC STAY  
THE BANK OF NEW YORK MELLON/MV 5-7-14 [[69](#)]  
RICHARD DWYER/Atty. for dbt.  
RYAN DAVIES/Atty. for mv.

**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. 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.**

8. [14-10798](#)-B-7 BENNY/CHRISTINA BANDA MOTION FOR RELIEF FROM  
CJO-1 AUTOMATIC STAY  
GREEN TREE SERVICING LLC/MV 5-19-14 [[12](#)]  
RAYMOND ISLEIB/Atty. for dbt.  
CHRISTINA O/Atty. for mv.

9. [14-12199](#)-B-7 ROSEMARIE MARTIN MOTION FOR RELIEF FROM  
SMK-1 AUTOMATIC STAY  
THE BANK OF NEW YORK MELLON/MV 5-9-14 [[12](#)]  
JERRY LOWE/Atty. for dbt.  
SHERI KANESAKA/Atty. for mv.

**The matter has been withdrawn. No appearance is necessary.**

11:00 A.M.

- |    |                               |                           |   |
|----|-------------------------------|---------------------------|---|
| 1. | <a href="#">14-10607</a> -B-7 | ABRAHAM/GABRIELA VALENCIA | PRO SE REAFFIRMATION AGREEMENT<br>WITH TOYOTA MOTOR CREDIT<br>CORPORATION<br>5-13-14 [ <a href="#">29</a> ] |
| 2. | <a href="#">14-11131</a> -B-7 | ANTHONY/IRENE SILVA       | REAFFIRMATION AGREEMENT WITH<br>SANTANDER CONSUMER USA INC.<br>5-14-14 [ <a href="#">15</a> ]               |

TIMOTHY SPRINGER/Atty. for dbt.

The court intends to deny approval of this reaffirmation agreement. The debtor's attorney signed the reaffirmation agreement, however, 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.

- |    |                               |  |   |
|----|-------------------------------|--|---|
| 3. | <a href="#">14-11735</a> -B-7 | FERNANDO ALVARADO GOVEA<br>AND GRISELDA CHAVEZ GOVEA | PRO SE REAFFIRMATION AGREEMENT<br>WITH WELLS FARGO DEALER<br>SERVICES<br>5-22-14 [ <a href="#">50</a> ]   |
| 4. | <a href="#">14-10752</a> -B-7 | ELEAZAR MEDINA AND ANGIE<br>GUZMAN                   | REAFFIRMATION AGREEMENT WITH<br>AMERICREDIT FINANCIAL SERVICES,<br>INC.<br>5-14-14 [ <a href="#">18</a> ] |

GARY HUSS/Atty. for dbt.

The court intends to deny approval of the reaffirmation agreement and the hearing will be dropped from calendar. Debtors were represented by counsel when they entered into the reaffirmation agreement. Pursuant to 11 U.S.C. § 524(c)(3), "if the debtor is represented by counsel, the agreement *must* be accompanied by an affidavit of the debtor(s) attorney attesting to the referenced items before the agreement will have legal effect." *In re Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok, 2009) (emphasis in original). In this case, the debtors' attorney affirmatively represented that the reaffirmation agreement created an undue hardship for the debtors and their dependants. Therefore, the agreement does not meet the requirements of 11 U.S.C. § 524(c) and is not enforceable. No appearance is necessary at this hearing.

5. [14-11677](#)-B-7 BRANDON/LAURA HOLLAND PRO SE REAFFIRMATION AGREEMENT  
WITH CAPITAL ONE AUTO FINANCE -  
2012 CHEVROLET SONIC  
5-14-14 [23]

Based on the debtors' unavailability, this matter will be continued to June 25, 2014, at 11:00 a.m. The court will prepare a minute order. No appearance is necessary.

6. [14-11677](#)-B-7 BRANDON/LAURA HOLLAND

PRO SE REAFFIRMATION AGREEMENT  
WITH FRESNO COUNTY FEDERAL  
CREDIT UNION - 2012 CHEVROLET  
CRUZ  
5-14-14 [[25](#)]

**Based on the debtors' unavailability, this matter will be continued to June 25, 2014, at 11:00 a.m. The court will prepare a minute order. No appearance is necessary.**