

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Wednesday, July 23, 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.

10:00 A.M.

1. [13-18110](#)-B-7 JUAN/CONNIE ABAD MOTION TO SELL
 RHT-2 6-24-14 [[35](#)]
 ROBERT HAWKINS/MV
 ALBERT GARCIA/Atty. for dbt.
 ROBERT HAWKINS/Atty. for mv.

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.

2. [14-11728](#)-B-7 SANDRA ARRIETA MOTION TO EMPLOY GOULD AUCTION
 PFT-1 AND APPRAISAL COMPANY AS
 PETER FEAR/MV AUCTIONEER, AUTHORIZING SALE OF
 PROPERTY AT PUBLIC AUCTION AND
 AUTHORIZING PAYMENT OF
 AUCTIONEER FEES AND EXPENSES
 6-24-14 [[14](#)]

PETER FEAR/Atty. for mv.

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.

3. [14-11928](#)-B-7 RICHARD KELLY CONTINUED OBJECTION TO DEBTOR'S
 JES-1 CLAIM OF EXEMPTIONS
 JAMES SALVEN/MV 5-28-14 [[16](#)]
 MARK ZIMMERMAN/Atty. for dbt.
 RESPONSIVE PLEADING

This matter will be dropped from calendar without a disposition to be renewed by the chapter 13 trustee if appropriate. The case will be converted to chapter 13 on the debtor's unopposed motion below. No appearance is necessary.

4. [14-11928](#)-B-7 RICHARD KELLY MOTION TO CONVERT CASE FROM
 MAZ-1 CHAPTER 7 TO CHAPTER 13
 RICHARD KELLY/MV 6-10-14 [[26](#)]
 MARK ZIMMERMAN/Atty. for dbt.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, 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.

5. [13-16432](#)-B-7 PATRICK/MARGARET BOWMAN MOTION TO COMPROMISE
JES-3 CONTROVERSY/APPROVE SETTLEMENT
JAMES SALVEN/MV AGREEMENT WITH PATRICK MICHAEL
BOWMAN AND MARGARET CAROLINE
BOWMAN
6-13-14 [[48](#)]

PETER FEAR/Atty. for dbt.

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.

6. [10-11253](#)-B-7 MAX/SUSAN DEVIVO MOTION FOR COMPENSATION FOR
JTW-2 JANZEN, TAMBERI AND WONG,
CHRISTOPHER RATZLAFF/MV ACCOUNTANT(S).
6-25-14 [[85](#)]

KEVIN O'CASEY/Atty. for dbt.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

7. [10-11253](#)-B-7 MAX/SUSAN DEVIVO MOTION FOR COMPENSATION BY THE
RHT-5 LAW OFFICE OF GWILLIAM, IVARY,
CHIOSSO, CAVALLI AND BREWER FOR
JAYME L. BURNS, SPECIAL
COUNSEL(S).
6-25-14 [[93](#)]

KEVIN O'CASEY/Atty. for dbt.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

8. [13-16155](#)-B-7 MICHAEL WEILERT AND MOTION TO SELL FREE AND CLEAR
PLF-3 GENEVIEVE DE MONTREMARE OF LIENS
JAMES SALVEN/MV 7-2-14 [[147](#)]
RILEY WALTER/Atty. for dbt.
PETER FEAR/Atty. for mv.

9. [11-60461](#)-B-7 THE WARNER COMPANY, INC. CONTINUED MOTION FOR
RH-8 COMPENSATION FOR ROBERT
HAWKINS, TRUSTEE'S ATTORNEY(S).
5-28-14 [[307](#)]

HAGOP BEDOYAN/Atty. for dbt.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

10. [13-18065](#)-B-7 NICOLAS/SHANNON NOLAN MOTION TO SELL
RHT-2 6-25-14 [[29](#)]
ROBERT HAWKINS/MV
MARK ZIMMERMAN/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.

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. [13-15878](#)-B-7 WILLIAM/SHIRLEY MOTION TO EMPLOY COLDWELL
TGM-2 ARMBRUSTER BANKER GONELLA REALTY AS
SHERYL STRAIN/MV BROKER(S)
7-2-14 [[33](#)]
HAGOP BEDOYAN/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.
RESPONSIVE PLEADING

12. [14-10282](#)-B-7 DELIA RUIZ MOTION TO EMPLOY GOULD AUCTION
PFT-1 & APPRAISAL COMPANY AS
PETER FEAR/MV AUCTIONEER, AUTHORIZING SALE OF
PROPERTY AT PUBLIC AUCTION AND
AUTHORIZING PAYMENT OF
AUCTIONEER FEES AND EXPENSES
6-24-14 [[27](#)]
MARK ZIMMERMAN/Atty. for dbt.
PETER FEAR/Atty. for mv.

This matter was fully noticed in compliance with the Local Rules and there is no opposition. Accordingly, the motion will be granted without oral argument for cause shown. The moving party shall submit a proposed order. No appearance is necessary.

13. [12-18909](#)-B-7 HARJINDER/JASVIR GILL
KDG-10 CONTINUED MOTION TO SELL
PETER FEAR/MV 6-11-14 [[424](#)]
THOMAS GILLIS/Atty. for dbt.
LISA HOLDER/Atty. for mv.
14. [09-60745](#)-B-7 ROBERT/TAWNYA PIERCE
RH-2 CONTINUED MOTION TO SELL
SHERYL STRAIN/MV 5-29-14 [[45](#)]
DAVID MATHIAS/Atty. for dbt.
ROBERT HAWKINS/Atty. for mv.
15. [13-13365](#)-B-7 JACOB MATHEW
TGM-2 CONTINUED MOTION TO SELL
SHERYL STRAIN/MV 6-6-14 [[21](#)]
PETER BUNTING/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

10:30 A.M.

1. [14-12529](#)-B-7 REGINALD REED
RCO-1
THE GOLDEN 1 CREDIT UNION/MV
THOMAS GILLIS/Atty. for dbt.
KRISTI WELLS/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-16-14 [[14](#)]

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.

2. [14-13040](#)-B-7 WILLIAM/LAUREN VAN WINKLE
JMA-5
FEDERAL HOME LOAN MORTGAGE
CORPORATION/MV
JULIA ADAMS/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-27-14 [[23](#)]

3. [13-14557](#)-B-7 WILLIE/GLENDA COOK
RCO-1
BANK OF AMERICA, N.A./MV
GEORGE LOGAN/Atty. for dbt.
KRISTI WELLS/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-16-14 [[33](#)]

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.

4. [12-17663](#)-B-7 PEDRO GUTIERREZ AND
PPR-1 FELIPA GUITERREZ
THE BANK OF NEW YORK MELLON/MV
SCOTT LYONS/Atty. for dbt.
MELISSA VERMILLION/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-19-14 [[32](#)]

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.

5. [14-11766](#)-B-7 DANIEL/PATRICIA FARFAN
ALP-1
BANK OF AMERICA, N.A./MV
BENNY BARCO/Atty. for dbt.
BALPREET THIARA/Atty. for mv.
NON-OPPOSITION

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-24-14 [[18](#)]

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.

6. [14-12592](#)-B-7 DAVID/CINDY WOOD
BHT-1
VENTURES TRUST 2013-I-NH/MV
GEORGE ALONSO/Atty. for dbt.
BRIAN TRAN/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
6-25-14 [[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.

7. [14-10871](#)-B-7 ANN HOSIER-HARDCASTLE
SW-1
WELLS FARGO BANK N.A./MV
PETER BUNTING/Atty. for dbt.
TORIANA HOLMES/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
7-10-14 [[30](#)]

This motion for relief from the automatic stay will be denied as moot. The debtor(s) is (are) an individual(s). The record does not show that the personal property collateral for this secured claim was redeemed or surrendered within the applicable time set by § 521(a)(2). Similarly, the record does not reflect that the loan was reaffirmed or that the movant denied a request to reaffirm the loan on the original contract terms. Therefore, pursuant to 11 U.S.C. § 362(h), the collateral is no longer property of the estate and the automatic stay has already terminated by operation of law. Movant may submit an order denying the motion, and confirming that the automatic stay has already terminated on the grounds set forth above. No attorney fees will be awarded in relation to this motion. No appearance is necessary.

11:00 A.M.

1. [14-12143](#)-B-7 MELANIE CAMACHO REAFFIRMATION AGREEMENT WITH
FINANCE AND THRIFT COMPANY
6-30-14 [[15](#)]

2. [14-12562](#)-B-7 FELIX/ANGELINA GONZALEZ REAFFIRMATION AGREEMENT WITH
CAPITAL ONE AUTO FINANCE
6-30-14 [[26](#)]

GARY HUSS/Atty. for dbt.

The court intends to deny approval of this reaffirmation agreement. The debtor(s) attorney signed the reaffirmation agreement certifying that he or she has explained the agreement to the debtor(s), but did not check the box to state an opinion that the reaffirmed debt will not create an undue hardship. The bankruptcy schedules show that reaffirmation of this debt creates a presumption of undue hardship which has not been rebutted in the reaffirmation agreement. In addition, based on the schedules, this debt does not appear to be for the debtors' automobile. No appearance is necessary.

3. [14-11587](#)-B-7 KARINA JIMENEZ PRO SE REAFFIRMATION AGREEMENT
WITH AMERICREDIT FINANCIAL
SERVICES, INC.
7-1-14 [[23](#)]

4. [14-11889](#)-B-7 JOHN PEEBLES, III AND REAFFIRMATION AGREEMENT WITH
MICHELLE PEEBLES FINANCE AND THRIFT COMPANY
6-26-14 [[20](#)]

DAVID JENKINS/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. No appearance is necessary.

5. [14-11999](#)-B-7 MANUEL DOMINGUEZ AND REAFFIRMATION AGREEMENT WITH
TERESA LOPEZ JPMORGAN CHASE BANK, N.A.
6-12-14 [[15](#)]

THOMAS GILLIS/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. No appearance is necessary.