

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable W. Richard Lee  
Hearing Date: Wednesday, September 4, 2013  
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. [13-12802](#)-B-7 MARIA LEON-CISNEROS MOTION TO AVOID LIEN OF FORTIS  
TCS-2 CAPITAL LLC  
MARIA LEON-CISNEROS/MV 7-30-13 [[18](#)]  
TIMOTHY SPRINGER/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. The moving party shall submit a proposed order. No appearance is necessary.**

2. [13-10214](#)-B-7 ELIZABETH BELL MOTION TO REDEEM  
CSL-1 7-31-13 [[22](#)]  
ELIZABETH BELL/MV  
CHRISTIE LEE/Atty. for dbt.  
RESPONSIVE PLEADING

**The motion will be denied without prejudice. The motion was not filed within 30 days after the first date set for the meeting of creditors, as required by §521(a)(2)(B). In addition, the motion was filed without admissible supporting evidence, pursuant to § 506(a)(2) and Local Rule 9014-1(d)(6), regarding the value of the collateral. Also, the debtor's statement of intent was not served on the trustee and all creditors named in the statement, FRBP 1007(b)(2), and served according to FRBP 7004 on the lienholder. Finally, the collateral to be redeemed was not exempted under §522 nor was it abandoned under §544, as required by §722. No appearance is necessary.**

3. [13-13115](#)-B-7 GREGORY/TARYN WILLIAMS MOTION TO DISMISS CASE PURSUANT  
UST-1 TO 11 U.S.C. SECTION 707(B)  
AUGUST LANDIS/MV 8-1-13 [[27](#)]  
RANDY RISNER/Atty. for dbt.  
ROBIN TUBESING/Atty. for mv.  
RESPONSIVE PLEADING

4. [13-11123](#)-B-7 MARIO/RACHEL GUTIERREZ CONTINUED OBJECTION TO DEBTOR'S  
PLF-2 CLAIM OF EXEMPTIONS AND/OR  
JAMES SALVEN/MV MOTION FOR TURNOVER OF PROPERTY  
6-21-13 [[38](#)]  
ALBERT GARCIA/Atty. for dbt.  
PETER FEAR/Atty. for mv.  
RESPONSIVE PLEADING

5. [13-11123](#)-B-7 MARIO/RACHEL GUTIERREZ OBJECTION TO DEBTOR'S CLAIM OF  
PLF-3 EXEMPTIONS AND/OR MOTION FOR  
JAMES SALVEN/MV TURNOVER OF PROPERTY  
8-2-13 [[57](#)]  
ALBERT GARCIA/Atty. for dbt.  
PETER FEAR/Atty. for mv.

6. [13-15224](#)-B-7 JOI HERNANDEZ ORDER TO SHOW CAUSE - FAILURE  
TO PAY FEES  
8-8-13 [[10](#)]
7. [13-10134](#)-B-7 HERNAN CORTEZ AND ROSARIO MOTION TO SELL  
SAS-1 LOPEZ 8-5-13 [[58](#)]  
SHERYL STRAIN/MV  
BENJAMIN SHEIN/Atty. for dbt.  
SHERYL STRAIN/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.**

8. [13-15134](#)-B-7 FERNANDO GARCIA ORDER TO APPEAR AND SHOW CAUSE  
WHY A PATIENT CARE OMBUDSMAN  
SHOULD NOT BE APPOINTED  
7-30-13 [[10](#)]  
  
PERRY POPOVICH/Atty. for dbt.
9. [13-10938](#)-B-7 ERICK/REBECCA HANNEMAN MOTION FOR REVIEW OF FEES  
UST-1 AND/OR MOTION FOR SANCTIONS ,  
AUGUST LANDIS/MV MOTION FOR ORDER BARRING GEORGE  
L. ALONSO FROM FILING ANY  
BANKRUPTCY DOCUMENT WITHOUT  
FILING COPIES OF ORIGINAL  
SIGNATURES  
7-26-13 [[22](#)]  
  
GEORGE ALONSO/Atty. for dbt.  
ROBIN TUBESING/Atty. for mv.

**The matter has been resolved by stipulation of the parties and order signed August 29, 2013. No appearance is necessary.**

10. [12-19745](#)-B-7 KAREN JOHNSTON OBJECTION TO CLAIM OF MERCY  
SBS-3 MEDICAL CENTER MERCED, CLAIM  
KAREN JOHNSTON/MV NUMBER 1  
7-15-13 [[32](#)]  
  
STUART SPENCER/Atty. for dbt.

**Based on review of the record and applicable law, the objection and request to disallow the claim will be overruled. The claim will be allowed as a tardily filed general unsecured claim payable pursuant to 11 U.S.C. §726(a)(3). The moving party shall submit a proposed order consistent with this ruling. No appearance is necessary.**

11. [13-14450](#)-B-7 RAFAEL/GLORIA DELATORRE MOTION TO EXCUSE RAFAEL GARCIA  
PMD-1 DELATORRE FROM APPEARANCE IN  
RAFAEL DELATORRE/MV THE 341 MEETING  
8-1-13 [[14](#)]  
  
PHILIPPE DWELSHAUVERS/Atty. for dbt.  
MOTION WITHDRAWN

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

12. [12-60455](#)-B-7 MARIO/ANITA VEGA CONTINUED MOTION TO COMPROMISE  
PFT-2 CONTROVERSY/APPROVE SETTLEMENT  
PETER FEAR/MV AGREEMENT WITH ODILIA CHAVEZ  
7-11-13 [[20](#)]  
  
MARIO LANGONE/Atty. for dbt.  
JUSTIN HARRIS/Atty. for mv.

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

13. [13-13073](#)-B-7 JEFF/CRYSTAL SCHWABENLAND MOTION TO SELL  
JES-1 8-5-13 [[23](#)]  
JAMES SALVEN/MV  
STEPHEN LABIAK/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. [12-19379](#)-B-7 LINDA FOLKS MOTION TO SELL  
TMT-1 7-17-13 [[16](#)]  
TRUDI MANFREDO/MV  
PAUL JAMES/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 moving party shall submit a proposed order. No appearance is necessary.**

15. [13-14198](#)-B-7 BRENDON HILLMAN OPPOSITION RE: TRUSTEE'S MOTION  
RHT-1 TO DISMISS FOR FAILURE TO  
APPEAR AT SEC. 341(A) MEETING  
OF CREDITORS  
7-25-13 [[24](#)]

16. [13-15310](#)-B-7 MIGUEL LOZOLLA MOTION TO COMPEL ABANDONMENT  
TOG-3 8-28-13 [[11](#)]  
MIGUEL LOZOLLA/MV  
THOMAS GILLIS/Atty. for dbt.  
OST 8/28

10:30 A.M.

1.	<a href="#"><u>10-17511</u></a> -B-7	CHARLES/PAMELA DUNCAN	MOTION FOR RELIEF FROM
	RCO-1		AUTOMATIC STAY
	PNC BANK, NATIONAL		7-25-13 [ <a href="#"><u>40</u></a> ]
	ASSOCIATION/MV		
	DAVID JENKINS/Atty. for dbt.		
	KRISTI WELLS/Atty. for mv.		
	DISCHARGED		

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. [13-14816](#)-B-7 KIMBERLY DAWSON  
VVF-1  
HONDA LEASE TRUST/MV  
SCOTT LYONS/Atty. for dbt.  
VINCENT FROUNJIAN/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
8-5-13 [[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.

3. [13-14227](#)-B-7 ERIC/LINDA SEGURA  
RCO-1  
THE BANK OF NEW YORK MELLON/MV  
TIMOTHY SPRINGER/Atty. for dbt.  
KRISTI WELLS/Atty. for mv.  
NON-OPPOSITION

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
8-5-13 [[13](#)]

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.

4. [13-10134](#)-B-7      HERNAN CORTEZ AND ROSARIO      MOTION FOR RELIEF FROM  
MBB-1                      LOPEZ                      AUTOMATIC STAY  
BANK OF AMERICA, N.A./MV                      8-2-13 [[51](#)]  
BENJAMIN SHEIN/Atty. for dbt.  
MARK DOMEYER/Atty. for mv.  
DISCHARGED

**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.**

5. [13-15046](#)-B-7      MANUEL/MARIANA LOPES                      MOTION FOR RELIEF FROM  
KMT-1                      AUTOMATIC STAY  
FARMERS AND MERCHANTS BANK OF                      8-2-13 [[13](#)]  
CENTRAL CALIFORNIA/MV  
RILEY WALTER/Atty. for dbt.  
BRUCE EMARD/Atty. for mv.  
STIPULATION FILED

**The matter has been resolved by stipulation of the parties. No appearance is necessary.**

6. [13-14350](#)-B-7      JAMES HUML                      MOTION FOR RELIEF FROM  
JFL-1                      AUTOMATIC STAY  
FEDERAL NATIONAL MORTGAGE                      8-12-13 [[13](#)]  
ASSOCIATION/MV  
JANINE ESQUIVEL/Atty. for dbt.  
JAMES LEWIN/Atty. for mv.

11:00 A.M.

1. [13-13605](#)-B-7 LUCY GOLDMAN CONTINUED REAFFIRMATION  
AGREEMENT WITH TOYOTA MOTOR  
CREDIT CORP.  
7-25-13 [[16](#)]

2. [13-12507](#)-B-7 CRAIG/TERI MUNGARY REAFFIRMATION AGREEMENT WITH  
RONOLD STEBLES  
8-1-13 [[22](#)]

JEFF REICH/Atty. for dbt.

**The court intends to deny approval of this reaffirmation agreement. The reaffirmation agreement is incomplete and does not show how the debtors can afford to make the payments on the reaffirmed debt. 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**

3. [13-14029](#)-B-7 MICHELLE XIONG PRO SE REAFFIRMATION AGREEMENT  
WITH WESTLAKE FINANCIAL  
SERVICES  
8-16-13 [[18](#)]

4. [13-13540](#)-B-7 JESSICA HOGAN PRO SE REAFFIRMATION AGREEMENT  
WITH KIA MOTORS FINANCE  
8-13-13 [[29](#)]

5. [13-13540](#)-B-7 JESSICA HOGAN PRO SE REAFFIRMATION AGREEMENT  
WITH WELLS FARGO FINANCIAL  
NATIONAL BANK  
8-15-13 [[31](#)]

6. [13-14745](#)-B-7 LINDA RODRIGUEZ PRO SE REAFFIRMATION AGREEMENT  
WITH WELLS FARGO DEALER  
SERVICES  
8-15-13 [[15](#)]

7. [13-14153](#)-B-7 ADRIAN HERNANDEZ REAFFIRMATION AGREEMENT WITH  
CIG FINANCIAL  
8-5-13 [[13](#)]

THOMAS GILLIS/Atty. for dbt.

**The court intends to deny approval of this reaffirmation agreement. The reaffirmation agreement is incomplete and does not show how the debtors can afford to make the payments on the reaffirmed debt. 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**

8. [13-13591](#)-B-7 NANCY MALPICA

PRO SE REAFFIRMATION AGREEMENT  
WITH CARMAX AUTO FINANCE  
8-9-13 [[29](#)]