

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable W. Richard Lee  
Hearing Date: Wednesday, September 10, 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.

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.

9:00 A.M.

- |    |                                      |              |  |
|----|--------------------------------------|--------------|--|
| 1. | <a href="#"><u>13-16171</u></a> -B-7 | FRANCES PASS | CONTINUED OBJECTION TO DEBTOR'S        |
|    | TGM-2                                |              | CLAIM OF EXEMPTIONS                    |
|    | JAMES SALVEN/MV                      |              | 12-31-13 [ <a href="#"><u>32</u></a> ] |
|    | GABRIEL WADDELL/Atty. for dbt.       |              |  |
|    | TRUDI MANFREDO/Atty. for mv.         |              |  |
|    | RESPONSIVE PLEADING                  |              |  |
| 2. | <a href="#"><u>13-16171</u></a> -B-7 | FRANCES PASS | CONTINUED STATUS CONFERENCE RE:        |
|    | <a href="#"><u>14-1056</u></a>       |              | COMPLAINT                              |
|    | SALVEN V. GALLI ET AL                |              | 5-28-14 [ <a href="#"><u>1</u></a> ]   |
|    | TRUDI MANFREDO/Atty. for pl.         |              |  |
|    | RESPONSIVE PLEADING                  |              |  |

10:00 A.M.

1. [10-19825](#)-B-7 FRANCISCO/MARIA PARREIRA CONTINUED MOTION FOR  
HAR-7 COMPENSATION BY THE LAW OFFICE  
OF MCCORMICK, BARSTOW,  
SHEPPARD, WAYTE AND CARRUTH,  
LLP FOR HILTON A. RYDER,  
TRUSTEE'S ATTORNEY(S) .  
7-3-14 [[315](#)]  
  
RILEY WALTER/Atty. for dbt.

This matter was continued from August 6, 2014, because the chapter 7 trustee had not yet filed her final report. The Trustee's Final Report has now been filed and by separate order the court is setting a hearing to review the reasonableness of the fees requested by the trustee in relation to the work performed. That review needs to be conducted with consideration of the work performed by the trustee's counsel. Accordingly, this matter will be continued to October 22, 2014, at 10:00 a.m., to be reviewed with the trustee's fee application. The court will prepare a minute order. No appearance is necessary.

2. [14-12733](#)-B-7 MANUEL LARA MOTION FOR REVIEW OF FEES OF  
UST-2 GEORGE L. ALONSO  
TRACY DAVIS/MV 8-6-14 [[21](#)]  
GEORGE ALONSO/Atty. for dbt.  
ROBIN TUBESING/Atty. for mv.

This matter will be continued to October 22, 2014, at 10:00 a.m., to be called with an Order to Show Cause which the court intends to issue and set for hearing at the same time. The court will prepare a minute order. No appearance is necessary.

Based on the evidence presented in support of the U.S. Trustee's motion it appears that Attorney George Alonzo has a habit of filing incomplete, inaccurate, and false documents with this court and that he unduly exposes his clients to the risk of losing their discharge by allowing them to sign blank documents. The problems disclosed in the U.S. Trustee's motion appear to be the result of either, (1) grossly erroneous advice from debtor's counsel, or (2) negligent supervision of the bankruptcy cases being filed by debtor's counsel. The U.S. Trustee and Attorney Alonzo have entered into a stipulation (filed on August 15, 2014) which purportedly resolves the U.S. Trustee's motion. However, the proposed stipulation offers no explanation for the cited problems with this case.

Further, the court is not satisfied that the remedy provided for in the U.S. Trustee's stipulation (disgorgement of fees) is sufficient to correct the problems and to force Attorney Alonzo to properly supervise his practice before this court. Accordingly, the court intends to issue an order to show cause why Attorney Alonzo should not be sanctioned and why other corrective relief should not be imposed.

3. [14-11940](#)-B-7 JOHN HADDEN  
RLF-1  
  
JEFF REICH/Atty. for dbt.  
  
MOTION BY JEFF REICH TO  
WITHDRAW AS ATTORNEY  
8-18-14 [[34](#)]
4. [12-15547](#)-B-7 DONNA DAVIS  
RH-5  
JAMES SALVEN/MV  
  
GARY HUSS/Atty. for dbt.  
ROBERT HAWKINS/Atty. for mv.  
  
MOTION TO COMPROMISE  
CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH DONNA MARIE  
DAVIS  
8-1-14 [[125](#)]
5. [12-15547](#)-B-7 DONNA DAVIS  
[14-1057](#)  
SALVEN V. THE RONDAVIS  
IRREVOCABLE TRUST ET AL  
ROBERT HAWKINS/Atty. for pl.  
RESPONSIVE PLEADING  
  
CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
5-30-14 [[1](#)]
6. [12-15548](#)-B-7 EVERETT DAVIS  
RH-5  
JAMES SALVEN/MV  
  
GARY HUSS/Atty. for dbt.  
ROBERT HAWKINS/Atty. for mv.  
  
MOTION TO COMPROMISE  
CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH THE RONDAVIS  
IRREVOCABLE TRUST, THE JAM  
IRREVOCABLE TRUST, THE  
FROSTYWHITE IRREVOCABLE TRUST,  
EVERETT LEROY DAVIS, DONNA  
MARIE DAVIS, AND ANDREA JEAN  
GONZALES  
8-1-14 [[117](#)]
7. [12-15548](#)-B-7 EVERETT DAVIS  
[14-1058](#)  
SALVEN V. THE RONDAVIS  
IRREVOCABLE TRUST ET AL  
ROBERT HAWKINS/Atty. for pl.  
RESPONSIVE PLEADING  
  
CONTINUED STATUS CONFERENCE RE:  
COMPLAINT  
5-30-14 [[1](#)]
8. [14-14066](#)-B-7 SAMUEL CHHUM  
EPE-1  
SAMUEL CHHUM/MV  
ERIC ESCAMILLA/Atty. for dbt.  
  
MOTION TO COMPEL ABANDONMENT  
8-18-14 [[11](#)]

9. [14-12770](#)-B-7 STEVEN/BARBARA BUTLER  
JDR-1  
STEVEN BUTLER/MV  
JEFFREY ROWE/Atty. for dbt.

MOTION TO AVOID LIEN OF TARGET  
NATIONAL BANK  
8-19-14 [[20](#)]

This motion will be denied without prejudice. The motion was served on the respondent on August 19, 2014. The notice states that respondent's opposition shall be filed 14 days before the hearing, which is only eight days after the motion was served. As such, the 22 day notice period does not comply with Local Rule 9014-1(f)(1).

In addition, the record does not establish that the motion was served on the named respondent in compliance with Federal Rule of Bankruptcy Procedure 7004(b)(1) (service on an individual), 7004(b)(3) (corporation, partnership or unincorporated association) or 7004(h) (FDIC Insured Depository Institution). *In re Villar*, 317 B.R. 88 (9<sup>th</sup> Cir. BAP 2004). Information regarding service on a corporation may be obtained from the California Secretary of State's Internet Website, see <http://kepler.sos.ca.gov/>. For a directory of FDIC Insured Institutions, see <http://www3.fdic.gov/idasp/main.asp>. Litigants are encouraged to attach a copy of their information source (web page, etc.) to the proof of service to assist the court in evaluating compliance with Rule 7004. No appearance is necessary.

10. [14-12770](#)-B-7 STEVEN/BARBARA BUTLER  
JDR-2  
STEVEN BUTLER/MV  
JEFFREY ROWE/Atty. for dbt.

MOTION TO AVOID LIEN OF CACH,  
LLC  
8-19-14 [[26](#)]

This motion will be denied without prejudice. The motion was served on the respondent on August 19, 2014. The notice states that respondent's opposition shall be filed 14 days before the hearing, which is only eight days after the motion was served. As such, the 22 day notice period does not comply with Local Rule 9014-1(f)(1). No appearance is necessary.

11. [14-12770](#)-B-7 STEVEN/BARBARA BUTLER  
JDR-3  
STEVEN BUTLER/MV  
JEFFREY ROWE/Atty. for dbt.

MOTION TO AVOID LIEN OF  
DISCOVER BANK  
8-19-14 [[32](#)]

This motion will be denied without prejudice. The motion was served on the respondent on August 19, 2014. The notice states that respondent's opposition shall be filed 14 days before the hearing, which is only eight days after the motion was served. As such, the 22 day notice period does not comply with Local Rule 9014-1(f)(1). No appearance is necessary.

12. [14-11473](#)-B-7 ANTHONY/MARYLOU ROZA  
RHT-3  
ROBERT HAWKINS/MV  
PAHOUA LOR/Atty. for dbt.  
ROBERT HAWKINS/Atty. for mv.

MOTION TO SELL  
8-7-14 [[23](#)]

**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.**

10:30 A.M.

1. [14-12110](#)-B-7 JOSHUA MARTIN AND DEANNA MOTION FOR RELIEF FROM  
PPR-1 LUNA-MARTIN AUTOMATIC STAY  
BANK OF AMERICA, N.A./MV 7-30-14 [[38](#)]  
ALBERT GARCIA/Atty. for dbt.  
HALIE LEONARD/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 to the extent that it applies. 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. [14-13231](#)-B-7 BLANCA AGUILAR MOTION FOR RELIEF FROM  
MBB-1 AUTOMATIC STAY  
BANK OF AMERICA, N.A./MV 8-11-14 [[20](#)]  
CORI JONES/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 to the extent that it applies. 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. [14-13182](#)-B-7     SHAUN/PATRICIA THOMPSON     MOTION FOR RELIEF FROM  
APN-1     AUTOMATIC STAY  
SANTANDER CONSUMER USA INC./MV     8-6-14 [[14](#)]  
GREG BLEVINS/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.

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.

4. [13-17683](#)-B-7     CHONGYANG/SUE HER     MOTION FOR RELIEF FROM  
PPR-1     AUTOMATIC STAY  
BANK OF AMERICA, N.A./MV     7-31-14 [[27](#)]  
JAMIE XIONG-VANG/Atty. for dbt.  
ASYA LANDA/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.



5. [14-13284](#)-B-7 NIKOLAUS KIOUS  
APN-1  
BMW BANK OF NORTH AMERICA/MV  
DAVID JENKINS/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
8-7-14 [[14](#)]

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. [14-12952](#)-B-7 IGNACIO ALCANTAR AND REAFFIRMATION AGREEMENT WITH  
MARCELA CEBALLOS ALLY FINANCIAL  
8-11-14 [[14](#)]

THOMAS GILLIS/Atty. for dbt.

The court intends to deny approval of the reaffirmation agreement. 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 he could not recommend the reaffirmation agreement. Therefore, the agreement does not meet the requirements of 11 U.S.C. § 524(c) and is not enforceable.

In addition, 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.

2. [14-12456](#)-B-7 MIGUEL SOLORZANO REAFFIRMATION AGREEMENT WITH  
AMERICAN AUTO FINANCING  
8-8-14 [17]

THOMAS GILLIS/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, 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. No appearance is necessary.

3. [14-12582](#)-B-7 ANNA SALCIDO PRO SE REAFFIRMATION AGREEMENT  
WITH ONEMAIN FINANCIAL  
8-15-14 [15]