

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Wednesday, September 25, 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.

9:00 A.M.

1. [13-10603](#)-B-7 OMAR ENRIGUEZ
[13-1049](#)
HEREDIA V. ENRIGUEZ
GABRIEL WADDELL/Atty. for pl. CONTINUED STATUS CONFERENCE RE:
AMENDED COMPLAINT, JURY DEMAND
8-8-13 [[23](#)]

2. [13-10603](#)-B-7 OMAR ENRIGUEZ
[13-1049](#) DRJ-2
HEREDIA V. ENRIGUEZ
DAVID JENKINS/Atty. for mv.
RESPONSIVE PLEADING MOTION TO DISMISS ADVERSARY
PROCEEDING/NOTICE OF REMOVAL
8-21-13 [[25](#)]

3. [11-63278](#)-B-7 TYLER MORGAN
DRJ-2
TYLER MORGAN/MV
DAVID JENKINS/Atty. for dbt.
RESPONSIVE PLEADING CONTINUED MOTION FOR DAMAGES
AND TO ENFORCE DISCHARGE
2-20-13 [[24](#)]

4. [11-63278](#)-B-7 TYLER MORGAN
[13-1028](#)
BENSON V. MORGAN
CYRIL LAWRENCE/Atty. for pl. CONTINUED STATUS CONFERENCE RE:
AMENDED COMPLAINT
7-15-13 [[19](#)]

5. [11-63278](#)-B-7 TYLER MORGAN
[13-1028](#) DRJ-2
BENSON V. MORGAN

DAVID JENKINS/Atty. for mv.
RESPONSIVE PLEADING MOTION FOR ORDER DISMISSING
FIRST AMENDED COMPLAINT FOR
FAILURE TO STATE A CLAIM
7-29-13 [[22](#)]

10:00 A.M.

1. [11-16825](#)-B-7 CRISPIN/CATALINA REYES MOTION TO AVOID LIEN OF HSBC
BANK NEVADA, N.A.
CRISPIN REYES/MV 8-16-13 [[22](#)]
JOEL WINTER/Atty. for dbt.

The motion will be denied without prejudice. No appearance is necessary. The moving papers do not include an appropriate docket control number as required by Local Rule 9014-1(c). In addition, the form and/or content of the notice do not comply with Local Rule 9014-1(d). Moreover, Exhibit A is not attached to the supporting declaration. Also, the debtors' attorney is not the attorney of record for the debtors and needs to file a notice of appearance or a substitution of attorney, together with a Rule 2016(b) disclosure statement, to appear in this case.

Finally, 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 (9th 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.

2. [13-14327](#)-B-7 RAFAEL HERRERA MOTION TO COMPEL ABANDONMENT
TOG-2 8-13-13 [[12](#)]
RAFAEL HERRERA/MV
THOMAS GILLIS/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.

3. [13-13729](#)-B-7 MARILYN STILLWELL
WMS-1
MARILYN STILLWELL/MV
WILLIAM COLLIER/Atty. for dbt.

MOTION TO AVOID LIEN OF CAPITAL
ONE BANK, USA, N.A.
8-14-13 [[22](#)]

The motion will be denied without prejudice. No appearance is necessary. 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 (9th 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.

4. [11-18532](#)-B-7 SALLY REYNOSO
JES-2
JAMES SALVEN/MV
M. ENMARK/Atty. for dbt.
JAMES SALVEN/Atty. for mv.

CONTINUED MOTION TO SELL
8-9-13 [[105](#)]

5. [13-11841](#)-B-7 MIGUEL BATISTA
TMT-3
TRUDI MANFREDO/MV
THOMAS GILLIS/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.

CONTINUED MOTION TO SURCHARGE
DEBTOR'S EXEMPTION
7-9-13 [[27](#)]

This matter will be continued to October 24, 2013, at 10:30 a.m. This matter will be consolidated for purposes of discovery and trial with the U.S. Trustee's adversary proceeding to deny the debtor's discharge. The court will prepare a minute order. No appearance is necessary.

6. [13-11841](#)-B-7 MIGUEL BATISTA
TMT-4
TRUDI MANFREDO/MV
THOMAS GILLIS/Atty. for dbt.
TRUDI MANFREDO/Atty. for mv.
RESPONSIVE PLEADING

CONTINUED MOTION FOR CONTEMPT
AND/OR MOTION FOR SANCTIONS
8-9-13 [[65](#)]

This matter will be continued to October 24, 2013, at 10:30 a.m. This matter will be consolidated for purposes of discovery and trial with the U.S. Trustee's adversary proceeding to deny the debtor's discharge. The court will prepare a minute order. No appearance is necessary.

7. [13-13042](#)-B-7 ANNETTE/MANUEL CASTRO MOTION TO DISMISS CASE
7-24-13 [[10](#)]
ANNETTE CASTRO/MV
JACK REVVILL/Atty. for dbt.

The motion will be denied without prejudice. The moving papers do not include an appropriate docket control number as required by Local Rule 9014-1(c). In addition, the proof of service fails to comply with Local Rule 9014-1(e) (3). Also, the form and/or content of the notice do not comply with Local Rule 9014-1(d). Finally, the motion was not served on the U.S. Trustee and the creditors. No appearance is necessary.

8. [12-60444](#)-B-7 CARLOS/MARIA GUTIERREZ CONTINUED MOTION TO CONVERT
TOG-1 CASE FROM CHAPTER 7 TO CHAPTER
CARLOS GUTIERREZ/MV 13
8-2-13 [[24](#)]
THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING

9. [13-12646](#)-B-7 MANUEL/JULIE MEDINA MOTION TO SELL
JES-1 8-26-13 [[21](#)]
JAMES SALVEN/MV
JOHN HARBIN/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.

10. [11-61859](#)-B-7 FRED/WILLADENE DODD CONTINUED MOTION TO COMPEL
GH-1 7-26-13 [[18](#)]
FRED DODD/MV
GARY HUSS/Atty. for dbt.
RESPONSIVE PLEADING

11. [11-61859](#)-B-7 FRED/WILLADENE DODD MOTION TO COMPROMISE
SAS-1 CONTROVERSY/APPROVE SETTLEMENT
SHERYL STRAIN/MV AGREEMENT WITH CITIBANK
8-27-13 [[25](#)]
GARY HUSS/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.

12. [13-12765](#)-B-7 PEDRO MAGALLENES CONTINUED MOTION TO CONVERT
TOG-2 CASE FROM CHAPTER 7 TO CHAPTER
PEDRO MAGALLENES/MV 13
7-15-13 [[13](#)]

THOMAS GILLIS/Atty. for dbt.
RESPONSIVE PLEADING
13. [13-13565](#)-B-7 MARIO/TELBINA ZAMBRANO MOTION TO EXTEND DEADLINE TO
SAS-1 FILE A COMPLAINT OBJECTING TO
SHERYL STRAIN/MV DISCHARGE OF THE DEBTOR
8-27-13 [[18](#)]

JEFF REICH/Atty. for dbt.
SHERYL STRAIN/Atty. for mv.

This matter will be continued to October 9, 2013, at 10:00 a.m., for proper service of the motion, with a notice of continued hearing, on the debtors' attorney, Jeff Reich. Alternatively, the trustee may submit a proposed order granting the motion with Jeff Reich's consent. The court will prepare a minute order. No appearance is necessary.

14. [13-15266](#)-B-7 PAO LEE MOTION TO AVOID LIEN OF MAIN
STREET ACQUISITION CORP.,
PAO LEE/MV MOTION TO AVOID LIEN OF CAPITAL
ONE BANK (USA) N.A.
8-23-13 [[9](#)]

JERRY LOWE/Atty. for dbt.

The motion will be denied without prejudice. No appearance is necessary. The moving papers do not include an appropriate docket control number as required by Local Rule 9014-1(c). In addition, the form and/or content of the notice do not comply with Local Rule 9014-1(d). Finally, 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 (9th 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.

15. [09-62372](#)-B-7 ZANE/EVA HAMMOND CONTINUED MOTION TO AVOID LIEN
RR-3 OF TREICHEL CONCRETE
ZANE HAMMOND/MV CONSTRUCTION, INC. AND/OR
MOTION TO AVOID LIEN OF
CREDITORS BUREAU USA
7-15-13 [[62](#)]

RANDY RISNER/Atty. for dbt.

The motion will be denied without prejudice for the reasons stated in the court's civil minute order dated August 23, 2013. Nothing else has been filed in response to the civil minute order. No appearance is necessary.

16. [13-13172](#)-B-7 HDD ELECTRIC INC. 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
9-3-13 [[8](#)]

GARY HUSS/Atty. for dbt.
PETER FEAR/Atty. for mv.

17. [12-12576](#)-B-7 LESLIE SEARCY MOTION TO AMEND MEMORANDUM
AB-3 OPINION/DECISION
GREGORY BLEVINS/MV 7-12-13 [[77](#)]
GREG BLEVINS/Atty. for dbt.
ALLEN BROSLOVSKY/Atty. for mv.
WITHDRAWN

The motion has been withdrawn. No appearance is necessary.

18. [13-12677](#)-B-7 ESTEBAN/ESMERALDA REYES MOTION TO COMPROMISE
JES-1 CONTROVERSY/APPROVE SETTLEMENT
JAMES SALVEN/MV AGREEMENT WITH ESTEBAN REYES
AND ESMERALDA REYES
8-23-13 [[15](#)]

ALFRED GALLEGOS/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.

19. [13-15690](#)-B-7 MANUEL/MARTHA COTTA MOTION TO COMPEL ABANDONMENT
RJI-1 9-11-13 [[14](#)]
MANUEL COTTA/MV
RAYMOND ISLEIB/Atty. for dbt.

20. [12-14498](#)-B-7 DAVID/KELLI DEAN
AB-3
GREGORY BLEVINS/MV
GREG BLEVINS/Atty. for dbt.
ALLEN BROSLOVSKY/Atty. for mv.
WITHDRAWN

MOTION TO AMEND MEMORANDUM
OPINION/DECISION
7-12-13 [[77](#)]

The motion has been withdrawn. No appearance is necessary.

21. [13-16030](#)-B-7 SUKHWANT/PARMJIT SANDHU
JRL-1
SUKHWANT SANDHU/MV
JERRY LOWE/Atty. for dbt.
OST 9/17

MOTION TO COMPEL ABANDONMENT
9-16-13 [[13](#)]

22. [13-15754](#)-B-7 GLORIA MENDOZA
GGL-1
GLORIA MENDOZA/MV
GEORGE LOGAN/Atty. for dbt.
OST 9/17

MOTION TO COMPEL ABANDONMENT
9-17-13 [[11](#)]

10:30 A.M.

1. [13-11300](#)-B-7 HARMESH/KASHMIR KUMAR FINAL HEARING RE: MOTION FOR
DDM-1 RELIEF FROM AUTOMATIC STAY
FIRST NATIONAL BANK OF 8-7-13 [[23](#)]
NORTHERN CALIFORNIA/MV
THOMAS ARMSTRONG/Atty. for dbt.
DENNIS MILLER/Atty. for mv.
DISCHARGED, RESPONSIVE
PLEADING WITHDRAWN

This motion will be dropped from calendar. This matter has been fully adjudicated pursuant to the order entered on September 11, 2013. No appearance is necessary.

2. [13-15511](#)-B-7 ISHMAEL/WAYNETTE SANTANA MOTION FOR RELIEF FROM
CJO-1 AUTOMATIC STAY
GREENTREE SERVICING LLC/MV 8-30-13 [[9](#)]
HENRY NUNEZ/Atty. for dbt.
CHRISTINA O/Atty. for mv.
3. [13-13719](#)-B-7 GENEVIEVE COX MOTION FOR RELIEF FROM
PD-1 AUTOMATIC STAY
WELLS FARGO BANK, N.A./MV 8-20-13 [[45](#)]
OLLIE MANAGO/Atty. for dbt.
JONATHAN CAHILL/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.

4. [12-18132](#)-B-7 EVARISTO/BERTHA MERA
PD-1
WELLS FARGO BANK, N.A./MV
REYNALDO PULIDO/Atty. for dbt.
JONATHAN CAHILL/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
8-20-13 [[24](#)]

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. [13-14137](#)-B-7 RONALD TURNER
VVF-1
HONDA LEASE TRUST/MV
AMANDA BILLYARD/Atty. for dbt.
VINCENT FROUNJIAN/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
8-20-13 [[16](#)]

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. [13-15470](#)-B-7 MICHAEL/JENNIFER THULL MOTION FOR RELIEF FROM
DJP-1 AUTOMATIC STAY
EDUCATIONAL EMPLOYEES CREDIT 8-27-13 [[19](#)]
UNION/MV
DON POOL/Atty. for mv.

This motion will be continued as a preliminary hearing to October 9, 2013, at 10:30 a.m. The motion needs to be properly noticed and served on the joint debtor at her address of record. The court will prepare a minute order. No appearance is necessary.

7. [13-15379](#)-B-7 FRED/STARR COLLISTER MOTION FOR RELIEF FROM
JHW-1 AUTOMATIC STAY
TD AUTO FINANCE LLC/MV 8-20-13 [[13](#)]
DEDE AGRAVA/Atty. for dbt.
JENNIFER WANG/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.

11:00 A.M.

1. [13-14318](#)-B-7 GLENN EBERT REAFFIRMATION AGREEMENT WITH VW
CREDIT, INC.
8-30-13 [[15](#)]

JANINE ESQUIVEL/Atty. for dbt.

The court intends to deny approval of this reaffirmation agreement. 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. It appears from the debtor's schedule B that this debt is not related to the debtor's property. No appearance is necessary.

2. [13-15535](#)-B-7 EDUARDO MORALES PRO SE REAFFIRMATION AGREEMENT
WITH TOYOTA MOTOR CREDIT
CORPORATION
9-6-13 [[9](#)]