

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Thursday, September 25, 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. [13-10302](#)-B-11 GMC DAIRY FARMS LP
TCL-4

MOTION FOR COMPENSATION BY THE
LAW OFFICE OF TUCKER, CHIU,
HEBESHA & WARD PC FOR CHRISTIAN
JINKERSON, DEBTOR'S
ATTORNEY(S).
8-27-14 [[615](#)]

CHRISTIAN JINKERSON/Atty. for dbt.
RESPONSIVE PLEADING

This matter was fully noticed in compliance with the Local Rules. Accordingly, the motion will be granted in part and continued in part, without oral argument, for cause shown.

There was no opposition to the request for interim approval of fees and the motion is granted as to that request. One-half of the approved fees may be paid from available funds.

Based on the responsive pleading filed by the Farm Credit West entities, the motion for payment of the remaining one-half of the interim fees will be continued to October 9, 2014, at 9:00 a.m., to be considered with confirmation of the Debtor's chapter 11 plan. The court has asked debtor's counsel to prepare an analysis of the administrative expenses to be paid in this case and the debtor's ability to pay them after plan confirmation. The moving party shall submit a proposed order. No appearance is necessary.

10:30 A.M.

1. [14-11940](#)-B-7 JOHN HADDEN STATUS CONFERENCE RE: COMPLAINT
[14-1072](#) 7-22-14 [[1](#)]
U.S. TRUSTEE V. HADDEN
ROBIN TUBESING/Atty. for pl.
RESPONSIVE PLEADING
2. [14-10344](#)-B-12 ANTONIO/LUCIA PARREIRA STATUS CONFERENCE RE: COMPLAINT
[14-1073](#) 7-23-14 [[1](#)]
PARREIRA ET AL V. A.L. GILBERT
COMPANY
RILEY WALTER/Atty. for pl.
RESPONSIVE PLEADING
3. [13-15582](#)-B-7 JEFF HEDGES MOTION FOR ENTRY OF DEFAULT
[13-1111](#) JUDGMENT
PACIFIC GAS AND ELECTRIC 3-19-14 [[37](#)]
COMPANY V. HEDGES
MARTHA SIMON/Atty. for mv.
ADVERSARY DISMISSED

This matter will be dropped from calendar without a disposition. The adversary proceeding has already been dismissed. No appearance is necessary.

4. [13-15582](#)-B-7 JEFF HEDGES ORDER TO SHOW CAUSE REGARDING
[13-1111](#) DISMISSAL
PACIFIC GAS AND ELECTRIC 8-1-14 [[40](#)]
COMPANY V. HEDGES
ADVERSARY DISMISSED

This matter will be dropped from calendar without a disposition. The adversary proceeding has already been dismissed. No appearance is necessary.

1:30 P.M.

1. [14-10002](#)-B-13 ALBERT/MONICA MENDOZA MOTION TO AVOID LIEN OF GCFS,
SJS-1 INC.
ALBERT MENDOZA/MV 8-27-14 [[40](#)]
SCOTT SAGARIA/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.

2. [14-13905](#)-B-13 ARMANDO CORTEZ ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
9-8-14 [[26](#)]

3. [14-13807](#)-B-13 GABRIEL/DEBRA BUENTELLO MOTION TO VALUE COLLATERAL OF
RLF-1 OCWEN LOAN SERVICING
GABRIEL BUENTELLO/MV 8-11-14 [[8](#)]
JEFF REICH/Atty. for dbt.

This motion to value the collateral for a consensual lien against real property was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted for cause shown without oral argument. Based on the evidence offered in support of the motion, the respondent's junior priority mortgage claim is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtor(s) may proceed under state law to obtain a reconveyance of respondent's trust deed upon completion of the chapter 13 plan and entry of the discharge. *Unless the chapter 13 plan has been confirmed, then the order shall specifically state that it is not effective until confirmation of the plan.* The debtor(s) shall submit a proposed order consistent with this ruling. No appearance is necessary.

This ruling is only binding on the named respondent in the moving papers and any successor who takes an interest in the property after service of the motion.

4. [10-60710](#)-B-13 ROBERT/ALMA COLEY MOTION TO SELL AND/OR MOTION TO
PLF-1 PAY
ROBERT COLEY/MV 9-4-14 [[42](#)]
PETER FEAR/Atty. for dbt.
RESPONSIVE PLEADING

5. [11-10116](#)-B-13 GERARDO HERNANDEZ
HDN-7
GERARDO HERNANDEZ/MV
HENRY NUNEZ/Atty. for dbt.
RESPONSIVE PLEADING
- CONTINUED MOTION TO MODIFY PLAN
7-11-14 [[92](#)]

This matter will be continued to October 9, 2014, at 1:30 p.m., to be called with the continued hearing on the debtor's Objection to Notice of Mortgage Payment Change. The court will prepare a minute order. No appearance is necessary.

6. [13-15718](#)-B-13 MATHEW ALFORD
MHM-1
MICHAEL MEYER/MV
SCOTT LYONS/Atty. for dbt.
WITHDRAWN
- OBJECTION TO CLAIM OF ALTAIR OH
XIII LLC, CLAIM NUMBER 5-1
8-7-14 [[49](#)]

The trustee's objection to the claim has been withdrawn. No appearance is necessary.

7. [14-11321](#)-B-13 RONALD/LEANNA BUYS
PBB-4
RONALD BUYS/MV

PETER BUNTING/Atty. for dbt.
- OBJECTION TO CLAIM OF THE BANK
OF NEW YORK MELLON, CLAIM
NUMBER 28
8-11-14 [[44](#)]

The objection will be sustained without oral argument. The record reflects that the objection is unopposed. The claim will be disallowed in full, or in part, on the grounds stated in the objection. The objecting party shall prepare the proposed order. No appearance is necessary.

8. [14-13622](#)-B-13 LORENZO TOVAR
HDN-3
LORENZO TOVAR/MV
HENRY NUNEZ/Atty. for dbt.
CASE DISMISSED
- MOTION TO CONVERT CHAPTER 13 TO
CHAPTER 11 CASE
9-3-14 [[50](#)]

This matter will be dropped from calendar without a disposition. The case has already been dismissed. No appearance is necessary.

9. [14-14028](#)-B-13 GEORGETTE AVEDIKIAN
RWR-1
FRESNO COUNTY FEDERAL CREDIT
UNION/MV
PETER BUNTING/Atty. for dbt.
RUSSELL REYNOLDS/Atty. for mv.
- MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-5-14 [[12](#)]

10. [12-16133](#)-B-13 JAMES/ANNETTE KROPP
ACW-5
JAMES KROPP/MV
ANDY WARSHAW/Atty. for dbt.

AMENDED MOTION TO MODIFY PLAN
8-20-14 [[105](#)]

The motion to confirm or modify a chapter 13 plan 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 debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

11. [12-16133](#)-B-13 JAMES/ANNETTE KROPP
ACW-6
JAMES KROPP/MV

ANDY WARSHAW/Atty. for dbt.

OBJECTION TO CLAIM OF THE
GOLDEN 1 CREDIT UNION, CLAIM
NUMBER 10
7-18-14 [[93](#)]

The objection will be overruled without prejudice. This matter was originally dropped from calendar on August 28, 2014, pending resolution of the trustee's notice of intent to dismiss the case. The trustee has not submitted a dismissal order. On September 3, 2014, the objection was renoticed for a hearing, however the notice was served 22 days before the hearing. The notice period does not comply with LBR 3007-1. No appearance is necessary.

12. [11-19734](#)-B-13 ERIC WISE
RLF-5
ERIC WISE/MV
SHANE REICH/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
8-12-14 [[70](#)]

13. [14-14351](#)-B-13 TEODORA MORENO
RS-1
TEODORA MORENO/MV
RICHARD STURDEVANT/Atty. for dbt.

MOTION TO EXTEND AUTOMATIC STAY
9-11-14 [[11](#)]

14. [14-13660](#)-B-13 SIMON/NAREE THONG
PBB-1
SIMON THONG/MV
PETER BUNTING/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
CITIBANK SOUTH DAKOTA, N.A.
8-28-14 [[15](#)]

This motion to value respondent's collateral was fully noticed in compliance with the Local Rules and there was no opposition. The motion will be granted for cause shown without oral argument. Based on the evidence presented, the respondent's secured claim will be fixed at \$1,000. The moving party shall submit a proposed order consistent with this ruling. *The proposed order shall specifically identify the collateral, and if applicable, the proof of claim to which it relates.* The order will be effective upon confirmation of the chapter 13 plan. No appearance is necessary.

15. [12-18061](#)-B-13 JAMES/VIRGINA SPENCE MOTION TO MODIFY PLAN
GH-5 7-31-14 [[59](#)]
JAMES SPENCE/MV
GARY HUSS/Atty. for dbt.
RESPONSIVE PLEADING

The motion to confirm or modify a chapter 13 plan was fully noticed in compliance with the Local Rules. The chapter 13 trustee has filed an objection however the debtors have agreed to resolve the objection in the confirmation order. The motion will be granted without oral argument for cause shown. The debtors shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall resolve the trustee's objection, shall include the docket control number of the motion, and it shall reference the plan by the date it was filed. No appearance is necessary.

16. [12-18061](#)-B-13 JAMES/VIRGINA SPENCE MOTION TO APPROVE LOAN
GH-6 MODIFICATION
JAMES SPENCE/MV 7-31-14 [[65](#)]
GARY HUSS/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. The court does not approve or disapprove the terms of a mortgage modification outside of a chapter 13 plan. *See In re Wofford*, 449 B.R. 362 (Bankr. W.D. Wis. 2011). However, the court will authorize the debtor(s) to enter into a modification agreement on terms to be negotiated between the debtor(s) and the mortgagee so long as modification of the mortgage does not interfere with the debtor(s) duties and trustee's administration of the chapter 13 plan. The moving party shall submit a proposed order. No appearance is necessary.

17. [14-12966](#)-B-13 KRISTIN HUESTIS MOTION TO CONFIRM PLAN
SAH-1 8-6-14 [[20](#)]
KRISTIN HUESTIS/MV
SUSAN HEMB/Atty. for dbt.

The motion to confirm or modify a chapter 13 plan 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 debtor(s) shall submit a proposed confirmation order for approval to the chapter 13 trustee. The confirmation order shall include the docket control number of the motion and it shall reference the plan by the date it was filed. No appearance is necessary.

18. [09-62371](#)-B-13 HIPOLITO/NORMA PELAYO MOTION TO APPROVE LOAN
GMA-5 MODIFICATION
HIPOLITO PELAYO/MV 8-20-14 [[69](#)]
GEOFFREY ADALIAN/Atty. for dbt.

19. [14-11975](#)-B-13 MICHAEL TAYLOR
GH-2
MICHAEL TAYLOR/MV
GARY HUSS/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO CONFIRM
PLAN
7-9-14 [[28](#)]