

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Wednesday, October 1, 2014
Place: U.S. Courthouse, 510 19th Street
Bakersfield, 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.

1:30 P.M.

1. [11-17100](#)-B-13 KENNETH/BRANDY CEMO MOTION TO MODIFY PLAN
RSW-4 8-15-14 [[49](#)]
KENNETH CEMO/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING
2. [14-12416](#)-B-13 ARMANDO/MARIA RAMIREZ CONTINUED MOTION TO VALUE
RSW-1 COLLATERAL OF HSBC/RS
ARMANDO RAMIREZ/MV 8-1-14 [[27](#)]
ROBERT WILLIAMS/Atty. for dbt.

The motion will be denied without prejudice. No appearance is necessary. This motion was continued to give debtors' counsel an opportunity to determine the proper respondent. The named respondent in the motion is an entity identified as "HSBC/RS." According to the notice of continued hearing, the lien is held in the name of Beneficial California Inc. The successor to Beneficial California Inc., is stated to be HSBC Finance Corporation. Neither of those entities is properly named as respondent in this motion.

3. [14-12417](#)-B-13 JOHN/MARGIE VALENZUELA MOTION TO CONFIRM PLAN
RSW-1 8-26-14 [[29](#)]
JOHN VALENZUELA/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING
4. [14-12122](#)-B-13 MARIO CABRERA STATUS CONFERENCE RE: COMPLAINT
[14-1070](#) 7-17-14 [[1](#)]
CABRERA V. RAMIREZ
PATRICK KAVANAGH/Atty. for pl.

This matter will be rescheduled to October 29, 2014, at 1:30 p.m., to be called with the trustee's motion to dismiss the case. The court will prepare a minute order. No appearance is necessary.

5. [14-12122](#)-B-13 MARIO CABRERA
[14-1070](#) TGF-1
CABRERA V. RAMIREZ
UNKNOWN TIME OF FILING/Atty. for mv.
RESPONSIVE PLEADING

MOTION TO DISMISS ADVERSARY
PROCEEDING/NOTICE OF REMOVAL
8-18-14 [[7](#)]

This matter will be continued to October 29, 2014, at 1:30 p.m., to be called with the trustee's motion to dismiss the case. At that time the court intends to grant this motion and dismiss the adversary proceeding, with prejudice, on the grounds stated in the motion, unless the debtor files an amended complaint and/or memorandum of points and authorities to show that the debtor has a plausible claim under applicable law.

The debtor is hereby granted leave to amend the complaint. The amended complaint shall be filed and served not later than October 15, 2014. The court will deem the defendant's pending motion to apply to the amended complaint. A supplemental responsive pleading may be filed but will not be required. The court will prepare a minute order. No appearance is necessary.

6. [14-13635](#)-B-13 ORALIA PABLO

FRANCISCO ALDANA/Atty. for dbt.
CASE DISMISSED

ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
8-25-14 [[27](#)]

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

7. [14-10744](#)-B-13 BUFORD LAND
MHM-1
MICHAEL MEYER/MV

ROBERT WILLIAMS/Atty. for dbt.
WITHDRAWN

MOTION TO DISMISS CASE FOR
UNREASONABLE DELAY THAT IS
PREJUDICIAL TO CREDITORS AND/OR
MOTION TO DISMISS CASE
8-14-14 [[50](#)]

The trustee's motion has been withdrawn. No appearance is necessary.

8. [14-10744](#)-B-13 BUFORD LAND
RSW-1
BUFORD LAND/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN
8-15-14 [[54](#)]

9. [12-12945](#)-B-13 STEVEN AYLER
MHM-4
MICHAEL MEYER/MV
PHILLIP GILLET/Atty. for dbt.
MICHAEL MEYER/Atty. for mv.
RESPONSIVE PLEADING

MOTION TO CONVERT CASE FROM
CHAPTER 13 TO CHAPTER 7
8-29-14 [[251](#)]

This matter was fully noticed in compliance with the Local Rules. The debtor filed a response that is not supported by admissible evidence and the record does not show that the default in the chapter 13 plan payments has been cured. Accordingly, the motion will be granted without oral argument for cause shown. The case will be converted to chapter 7 for cause shown in the moving papers. The court will enter a minute order. No appearance is necessary.

10. [13-17646](#)-B-13 COLEEN JENKINS
PWG-1
COLEEN JENKINS/MV
PHILLIP GILLET/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO MODIFY PLAN
8-11-14 [[37](#)]

11. [14-13850](#)-B-13 LAWSON/DIANNA SMITH
MHM-1

OBJECTION TO CONFIRMATION OF
PLAN BY TRUSTEE MICHAEL H.
MEYER
9-16-14 [[16](#)]

PHILLIP GILLET/Atty. for dbt.

This objection to confirmation was noticed as a preliminary hearing. The objection will be continued and set for a final hearing on October 29, 2014, at 1:30 p.m. Unless this case is voluntarily converted to chapter 7 or dismissed or the objection has been withdrawn, the debtors shall file and serve a written response not later than October 15. The response shall specifically address each issue raised in the objection, state whether the issue is disputed or undisputed, and include admissible evidence to support the debtors' position. If a written response is not timely filed, the objection will be sustained on the grounds stated and confirmation will be denied without a further hearing. If debtors do not timely respond to this objection, then debtors shall file, serve and set for hearing, a confirmable modified plan, not later than October 22, 2014. The court will prepare a civil minute order.

12. [14-11754](#)-B-13 BRETT/RENEE SMITH
KK-1
GREEN TREE SERVICING LLC/MV

OBJECTION TO CONFIRMATION OF
PLAN BY GREEN TREE SERVICING
LLC
9-3-14 [[43](#)]

NEIL SCHWARTZ/Atty. for dbt.
KATELYN KNAPP/Atty. for mv.

The objection is untimely and will be overruled without prejudice. The last date for filing objections to confirmation was May 22, 2014. The date for a hearing regarding confirmation was June 4, 2014. The confirmed plan does not fix the amount of the mortgage arrearage and the chapter 13 trustee will seek appropriate adjustments to the plan after all claims have been filed and the trustee files a notice of filed claims. No appearance is necessary.

13. [14-13054](#)-B-13 RUTH ORTIZ
SJS-1
RUTH ORTIZ/MV
SUSAN SALEHI/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN
8-8-14 [[36](#)]

This matter will be continued to October 29, 2014, at 1:30 p.m. The trustee has not yet concluded the meeting of creditors and by prior order of the court, the trustee has another 7 days after completion of the creditors' meeting to file his objection to the plan. The court will prepare a civil minute order. No appearance is necessary.

14. [14-12955](#)-B-13 MILTON MINER

JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION/MV

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY
JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION
7-23-14 [[44](#)]

RANDALL NAIMAN/Atty. for mv.
RESPONSIVE PLEADING

This matter will be continued to October 29, 2014, at 1:30 p.m. The debtor has not yet appeared for, and the trustee has not yet concluded, the meeting of creditors. By prior order of the court, the trustee has another 7 days after completion of the creditors' meeting to file his objection to the plan.

The objecting party has not yet filed a proof of claim to support the objection and the court still has the trustee's motion to dismiss under submission. The court will prepare a civil minute order. No appearance is necessary.

15. [11-63156](#)-B-13 TIMOTHY HARBOUR
PK-5
TIMOTHY HARBOUR/MV
PATRICK KAVANAGH/Atty. for dbt.

MOTION TO MODIFY PLAN
8-13-14 [[69](#)]

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.

16. [11-16060](#)-B-13 JAMES/SANDRA BLOXOM
MHM-1
MICHAEL MEYER/MV

OBJECTION TO CLAIM OF GRANT &
WEBER, CLAIM NUMBER 5 AND/OR
OBJECTION TO CLAIM OF GRANT &
WEBER, CLAIM NUMBER 6
8-7-14 [[64](#)]

ROBERT WILLIAMS/Atty. for dbt.

The objection will be sustained and/or modified as follows: Claim #8 is deemed to supersede and replace claims #5 and #6. The fact that this claim may be an amendment of, or duplicate of another filed claim is not a ground for disallowance of a claim enumerated in 11 U.S.C. § 502(b). Section 502(b) sets forth the sole grounds for objecting to a claim and the court must allow the claim unless one of the exceptions applies. *In re Heath*, 331 B.R. 424, 435 (9th Cir. BAP 2005), citing *In re Dove-Nation*, 318 B.R. 147, 150-51 (8th Cir. BAP 2004). The objecting party shall submit a proposed order consistent with this ruling. No appearance is necessary.

17. [14-12570](#)-B-13 STEPHEN/CAROL CHOAT
DMG-1
STEPHEN CHOAT/MV
D. GARDNER/Atty. for dbt.
RESPONSIVE PLEADING

CONTINUED MOTION TO CONFIRM
PLAN
6-26-14 [[30](#)]

18. [14-14071](#)-B-13 THEODORE/DEBRA PORWOLL
LKW-1
THEODORE PORWOLL/MV
LEONARD WELSH/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
WELLS FARGO BANK
8-22-14 [[8](#)]

This motion to value the collateral for a judicial 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 abstract of judgment in third priority is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. *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 debtors 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.

19. [14-14071](#)-B-13 THEODORE/DEBRA PORWOLL
LKW-2
THEODORE PORWOLL/MV
LEONARD WELSH/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF
WELLS FARGO BANK
8-22-14 [[15](#)]

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 second priority deed of trust is found to be wholly unsecured and may be treated as a general unsecured claim in the chapter 13 plan. The debtors 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.

20. [14-11274](#)-B-13 MANUEL DURAN
RSW-4
MANUEL DURAN/MV
ROBERT WILLIAMS/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN
8-15-14 [[58](#)]

2:00 P.M.

1. [14-12415](#)-B-13 CHRISTOPHER HARNER
MHM-1
MICHAEL MEYER/MV
ROBERT WILLIAMS/Atty. for dbt.

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
8-27-14 [[90](#)]

The trustee's motion to dismiss was noticed as a preliminary hearing. The motion will be continued and set for a final hearing on October 29, 2014, at 1:30 p.m. A response is due by No appearance is necessary.

Unless the chapter 13 trustee files a notice of withdrawal of this motion, the debtor(s) responsive pleading, with admissible supporting evidence, shall be filed and served not later than October 22, 2014. At the final hearing, the court will make a ruling based on the evidence presented and, if relevant, judicial notice of the record. If timely opposition is not filed, the matter will be adjudicated by predisposition without oral argument. The court will enter a civil minute order.

2. [14-10635](#)-B-13 JOE/ARLENE VIZCARRA
MHM-3
MICHAEL MEYER/MV

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
AND/OR MOTION TO DISMISS CASE
8-27-14 [[38](#)]

ROBERT WILLIAMS/Atty. for dbt.

The trustee's motion to dismiss was noticed as a preliminary hearing. The motion will be continued and set for a final hearing on October 29, 2014, at 1:30 p.m. A response is due by October 22, 2014. No appearance is necessary.

Unless the chapter 13 trustee files a notice of withdrawal of this motion, the debtor(s) responsive pleading, with admissible supporting evidence, shall be filed and served not later than October 22, 2014. At the final hearing, the court will make a ruling based on the evidence presented and, if relevant, judicial notice of the record. If timely opposition is not filed, the matter will be adjudicated by predisposition without oral argument. The court will enter a civil minute order.

3. [14-13054](#)-B-13 RUTH ORTIZ
MHM-1
MICHAEL MEYER/MV

MOTION TO DISMISS CASE FOR
FAILURE TO MAKE PLAN PAYMENTS
AND/OR MOTION TO DISMISS CASE
8-27-14 [[40](#)]

SUSAN SALEHI/Atty. for dbt.
WITHDRAWN

The trustee's motion has been withdrawn. No appearance is necessary.

4. [14-12957](#)-B-13 ALBA BARILLAS
MHM-1
MICHAEL MEYER/MV

MOTION TO DISMISS CASE AND/OR
MOTION TO DISMISS CASE FOR
FAILURE TO PROVIDE TAX
DOCUMENTS
7-23-14 [[26](#)]

LEONARD PENA/Atty. for dbt.
WITHDRAWN

The trustee's motion has been withdrawn. No appearance is necessary.

5. [14-13365](#)-B-13 SAM/MARIETTA SHIELDS
BHT-1
ASTORIA BANK/MV

NEIL SCHWARTZ/Atty. for dbt.
BRIAN TRAN/Atty. for mv.

CONTINUED OBJECTION TO
CONFIRMATION OF PLAN BY ASTORIA
BANK
8-5-14 [[15](#)]
6. [14-13365](#)-B-13 SAM/MARIETTA SHIELDS
MHM-1
MICHAEL MEYER/MV
NEIL SCHWARTZ/Atty. for dbt.

MOTION TO DISMISS CASE
8-26-14 [[24](#)]

The motion will be denied. The trustee requests dismissal because the debtors failed to appear for the meeting of creditors. It appears from the record that the meeting of creditors has now been concluded. No appearance is necessary.

3:00 P.M.

1. [11-15697](#)-B-11 REAL WILSON ENTERPRISES,
INC.

HILTON RYDER/Atty. for dbt.

CONTINUED STATUS CONFERENCE RE:
VOLUNTARY PETITION
5-17-11 [[1](#)]
2. [11-15697](#)-B-11 REAL WILSON ENTERPRISES,
HAR-12 INC.

HILTON RYDER/Atty. for dbt.

CONTINUED MOTION FOR
COMPENSATION BY THE LAW OFFICE
OF MCCORMICK, BARSTOW,
SHEPPARD, WAYTE AND CARRUTH LLP
FOR HILTON A. RYDER, DEBTOR'S
ATTORNEY(S).
8-6-14 [[619](#)]

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. [11-15697](#)-B-11 REAL WILSON ENTERPRISES,
HAR-7 INC.

HILTON RYDER/Atty. for dbt.

CONTINUED AMENDED DISCLOSURE
STATEMENT
6-25-14 [[601](#)]