

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Thursday, October 2, 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.

9:00 A.M.

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|----|--------------------------------------|----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| 1. | <u>14-13674</u> -B-7 | MICHAEL SCHATZ
<u>14-1080</u>
HUGHES FEDERAL CREDIT UNION V.
SCHATZ
EDWARD WEBER/Atty. for pl. | STATUS CONFERENCE RE: COMPLAINT
8-4-14 [<u>1</u>] |
| 2. | <u>14-10594</u> -B-7 | LEOPOLDO/YESENIA VARGAS
<u>14-1074</u>
U.S. TRUSTEE V. VARGAS ET AL
GREGORY POWELL/Atty. for pl. | STATUS CONFERENCE RE: COMPLAINT
7-23-14 [<u>1</u>] |
| 3. | <u>14-10594</u> -B-7 | LEOPOLDO/YESENIA VARGAS
UST-1
TRACY DAVIS/MV

PHILLIP GILLET/Atty. for dbt.
GREGORY POWELL/Atty. for mv. | CONTINUED MOTION TO DISMISS
CASE PURSUANT TO 11 U.S.C.
SECTION 707(B)
5-16-14 [<u>23</u>] |

10:00 A.M.

1. [14-11203](#)-B-7 IBRAHIM SNOBAR AND HELEN MOTION TO SELL AND/OR MOTION TO
 RP-1 AKROUSH PAY , MOTION TO ABANDON
 RANDELL PARKER/MV 9-4-14 [[26](#)]
 ROBERT WILLIAMS/Atty. for dbt.

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.

2. [13-16845](#)-B-7 KEYSTONE MINE MANAGEMENT CONTINUED MOTION TO SELL FREE
 KDG-2 II AND CLEAR OF LIENS
 VINCENT GORSKI/MV 5-8-14 [[166](#)]
 PHILLIP GILLET/Atty. for dbt.
 LISA HOLDER/Atty. for mv.
 RESPONSIVE PLEADING

This matter will be called on the 10:30 a.m. calendar with the motion for relief from the automatic stay. No appearance is necessary at 10:00 a.m.

3. [13-16845](#)-B-7 KEYSTONE MINE MANAGEMENT MOTION TO ESTABLISH BIDDING
 KDG-3 II PROCEDURES FOR KEYSTONE AND
 VINCENT GORSKI/MV EIGHT OUNCE UNPATENTED MINING
 CLAIMS, MILL SITE CLAIMS, AND
 EQUIPMENT AND/OR MOTION TO
 ESTABLISH PROCEDURES REGARDING
 WBW'S CREDIT BID
 9-4-14 [[298](#)]

 PHILLIP GILLET/Atty. for dbt.
 LISA HOLDER/Atty. for mv.

This matter will be called on the 10:30 a.m. calendar with the motion for relief from the automatic stay. No appearance is necessary at 10:00 a.m.

4. [13-16845](#)-B-7 KEYSTONE MINE MANAGEMENT MOTION TO COMPROMISE
 KDG-4 II CONTROVERSY/APPROVE SETTLEMENT
 VINCENT GORSKI/MV AGREEMENT WITH BUSH MANAGEMENT
 COMPANY
 9-4-14 [[291](#)]

 PHILLIP GILLET/Atty. for dbt.
 LISA HOLDER/Atty. for mv.

This matter will be called on the 10:30 a.m. calendar with the motion for relief from the automatic stay. No appearance is necessary at 10:00 a.m.

5. [14-11574](#)-B-7 VICTORIA MCCrackEN MOTION TO AVOID LIEN OF
RSW-1 SELF-INSURED SCHOOLS OF
VICTORIA MCCrackEN/MV CALIFORNIA
7-25-14 [[12](#)]

ROBERT WILLIAMS/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.

6. [14-11779](#)-B-7 GEORGE/JENNIFER CLARKE MOTION TO SELL
JMV-2 8-30-14 [[23](#)]
JEFFREY VETTER/MV
VINCENT GORSKI/Atty. for dbt.

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.

7. [13-10688](#)-B-7 NATIVIDAD/LIBRADA CHAVEZ MOTION FOR COMPENSATION FOR
RANDELL PARKER/MV RANDELL PARKER, CHAPTER 7
TRUSTEE(S)
6-20-14 [[64](#)]

VINCENT GORSKI/Atty. for dbt.
LISA HOLDER/Atty. for mv.
RESPONSIVE PLEADING

8. [14-10594](#)-B-7 LEOPOLDO/YESENIA VARGAS MOTION TO EXTEND TIME TO FILE A
UST-2 MOTION TO DISMISS CASE UNDER
TRACY DAVIS/MV SEC. 707(B) AND/OR MOTION TO
EXTEND DEADLINE TO FILE A
COMPLAINT OBJECTING TO
DISCHARGE OF THE DEBTOR
8-13-14 [[45](#)]

PHILLIP GILLET/Atty. for dbt.
GREGORY POWELL/Atty. for mv.

This matter will be advanced and called on the 9:00 a.m. calendar with the U.S. Trustee's motion to dismiss and the status conference in the adversary proceeding.

9. [11-18897](#)-B-7 MISAEL/PATRICIA RAMIREZ
NES-2
MISAEL RAMIREZ/MV
NEIL SCHWARTZ/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO AVOID LIEN OF
AMERICAN EXPRESS CENTURION BANK
8-28-14 [[37](#)]

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.

Debtors' counsel filed a notice of non-opposition purportedly signed by a representative of the law firm of Becket and Lee, LLP, however the notice does not state that Becket & Lee, LLP, is representing the respondent bank and the record is insufficient to show that Becket & Lee, LLP, has appeared on behalf of the respondent bank, for purposes of accepting service of process in compliance with FRBP 7004(h)(1).

10. [11-18897](#)-B-7 MISAEL/PATRICIA RAMIREZ
NES-3
MISAEL RAMIREZ/MV
NEIL SCHWARTZ/Atty. for dbt.
RESPONSIVE PLEADING

MOTION TO AVOID LIEN OF
AMERICAN EXPRESS CENTURION BANK
8-28-14 [[43](#)]

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.

Debtors' counsel filed a notice of non-opposition purportedly signed by a representative of the law firm of Becket and Lee, LLP, however the notice does not state that Becket & Lee, LLP, is representing the respondent bank and the record is insufficient to show that Becket & Lee, LLP, has appeared on behalf of the respondent bank, for purposes of accepting service of process in compliance with FRBP 7004(h)(1).

11. [14-12497](#)-B-7 DEBRA GATTUSO
JMV-2
JEFFREY VETTER/MV
LEONARD WELSH/Atty. for dbt.

MOTION TO SELL
9-2-14 [[21](#)]

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.

12. [14-12497](#)-B-7 DEBRA GATTUSO
JMV-3
JEFFREY VETTER/MV
LEONARD WELSH/Atty. for dbt.

MOTION TO SELL
8-31-14 [[12](#)]

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. [13-16845](#)-B-7 KEYSTONE MINE MANAGEMENT MOTION FOR RELIEF FROM
MLA-1 II AUTOMATIC STAY
BUSH MANAGEMENT COMPANY/MV 9-4-14 [[279](#)]
PHILLIP GILLET/Atty. for dbt.
JESS BRESSI/Atty. for mv.
RESPONSIVE PLEADING

2. [14-13175](#)-B-7 TERRI DITTY MOTION FOR RELIEF FROM
PD-1 AUTOMATIC STAY
U.S. BANK NATIONAL 8-27-14 [[32](#)]
ASSOCIATION/MV
PETER TRACY/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.

3. [14-13285](#)-B-7 JEFFREY/LINDSAY KERR
NFS-1
WESTERRA CREDIT UNION/MV
WILLIAM EDWARDS/Atty. for dbt.
NATHAN SMITH/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
8-25-14 [[18](#)]

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. [14-13904](#)-B-7 LORI MEYERS

PRO SE REAFFIRMATION AGREEMENT
WITH SPRINGLEAF FINANCIAL
SERVICES, INC.
9-11-14 [[17](#)]