

UNITED STATES BANKRUPTCY COURT
Eastern District of California
Honorable W. Richard Lee
Hearing Date: Wednesday, November 26, 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.

10:00 A.M.

1. [14-15100](#)-B-7 RICHARD/SUSAN WILLIAMS ORDER TO SHOW CAUSE - FAILURE
TO PAY FEES
11-3-14 [[11](#)]

ROSALINA NUNEZ/Atty. for dbt.
FILING FEE PAID IN FULL

The record shows that the required fee has been paid in full. The OSC will be dropped from calendar. No appearance is necessary.

2. [14-15220](#)-B-7 CARMELO RODRIGUEZ MOTION TO CONVERT CASE FROM
HDN-1 CHAPTER 7 TO CHAPTER 13
CARMELO RODRIGUEZ/MV 11-6-14 [[10](#)]
HENRY NUNEZ/Atty. for dbt.

- | | | | |
|----|-------------------------------|----------------------|---------------------------------|
| 3. | 14-14131 -B-7 | JUAN LOPEZ CASTANEDA | OBJECTION TO DEBTOR'S CLAIM OF |
| | JES-1 | | EXEMPTIONS |
| | JAMES SALVEN/MV | | 10-29-14 [19] |
| | JAMES SALVEN/Atty. for mv. | | |
| | RESPONSIVE PLEADING | | |

The trustee's objection is overruled without prejudice. The spousal waiver has now been filed and the issue appears to have been resolved. No appearance is necessary.

4. [08-12435](#)-B-7 KEN/PAULA THOMPSON MOTION TO AVOID LIEN OF CAPITAL
MAZ-3 ONE BANK
KEN THOMPSON/MV 10-22-14 [[35](#)]
MARK ZIMMERMAN/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.

5. [08-12435](#)-B-7 KEN/PAULA THOMPSON MOTION TO AVOID LIEN OF CACH,
MAZ-4 LLC
KEN THOMPSON/MV 10-22-14 [[40](#)]
MARK ZIMMERMAN/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. [09-60745](#)-B-7 ROBERT/TAWNYA PIERCE CONTINUED MOTION FOR
RH-3 COMPENSATION FOR ROBERT
HAWKINS, TRUSTEE'S ATTORNEY(S).
9-19-14 [[56](#)]

DAVID MATHIAS/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. [13-16155](#)-B-7 MICHAEL WEILERT AND CONTINUED MOTION TO SELL
PLF-6 GENEVIEVE DE MONTREMARE 9-17-14 [[194](#)]
JAMES SALVEN/MV
RILEY WALTER/Atty. for dbt.
PETER FEAR/Atty. for mv.

8. [13-16155](#)-B-7 MICHAEL WEILERT AND MOTION TO COMPROMISE
PLF-9 GENEVIEVE DE MONTREMARE CONTROVERSY/APPROVE SETTLEMENT
JAMES SALVEN/MV AGREEMENT WITH PENDRAGON TRUST
11-5-14 [[223](#)]
RILEY WALTER/Atty. for dbt.
PETER FEAR/Atty. for mv.

9. [14-15071](#)-B-7 JUAN VAZQUEZ AND CRYSTAL MOTION FOR WAIVER OF THE
AGUIRRE CHAPTER 7 FILING FEE OR OTHER
JUAN VAZQUEZ/MV FEE
10-16-14 [[5](#)]
RALPH AVILA/Atty. for dbt.
RESPONSIVE PLEADING

10. [14-13472](#)-B-7 GUSTAVO/MANUELA RUIZ MOTION TO VACATE DISMISSAL OF
SL-1 CASE
GUSTAVO RUIZ/MV 10-31-14 [[20](#)]
SCOTT LYONS/Atty. for dbt.
DISMISSED

11. [14-14284](#)-B-7 JIM LUC OBJECTION TO DEBTOR'S CLAIM OF
JES-1 EXEMPTIONS
JAMES SALVEN/MV 10-16-14 [[15](#)]

The trustee's objection is overruled without prejudice. The spousal waiver has now been filed and the issue appears to have been resolved. No appearance is necessary.

12. [12-13787](#)-B-7 JAIME GONZALES MOTION TO SELL
JES-2 10-22-14 [[54](#)]
JAMES SALVEN/MV
DAVID JENKINS/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.

13. [14-12690](#)-B-7 ROBERT/CAROL HEINZ MOTION TO SELL
JES-3 10-29-14 [[30](#)]
JAMES SALVEN/MV
JEFF REICH/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

14. [14-14895](#)-B-7 CLARA LOZA MOTION TO COMPEL ABANDONMENT
JBC-1 11-10-14 [[11](#)]
CLARA LOZA/MV
JAMES CANALEZ/Atty. for dbt.

15. [14-10398](#)-B-7 LAURA GEIGER CONTINUED MOTION TO CONVERT
PLF-1 CASE FROM CHAPTER 7 TO CHAPTER
LAURA GEIGER/MV 13
10-2-14 [[32](#)]
PETER FEAR/Atty. for dbt.
RESPONSIVE PLEADING

16. [14-15299](#)-B-7 MICHAEL COALE MOTION TO COMPEL ABANDONMENT
MAZ-1 11-5-14 [[12](#)]
MICHAEL COALE/MV
MARK ZIMMERMAN/Atty. for dbt.
RESPONSIVE PLEADING

10:30 A.M.

1. [14-14113](#)-B-7 PAUL/FRANCES HOWARD
PD-1
BANK OF AMERICA, N.A./MV
SCOTT LYONS/Atty. for dbt.
BRYAN FAIRMAN/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-23-14 [[19](#)]

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. [14-14138](#)-B-7 DIMAS/ISAURA TAMAYO
PD-1
PNC BANK, NATIONAL
ASSOCIATION/MV
MARK ZIMMERMAN/Atty. for dbt.
JONATHAN CAHILL/Atty. for mv.
RESPONSIVE PLEADING

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-16-14 [[19](#)]

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. [14-14676](#)-B-7 ANTHONY KING
APN-1
WELLS FARGO BANK, N.A./MV
GARY SAUNDERS/Atty. for dbt.
AUSTIN NAGEL/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-22-14 [[11](#)]

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. [14-14682](#)-B-7 ANDREW EBEJER
MET-1
BANK OF THE WEST/MV
STUART PRICE/Atty. for dbt.
MARY TANG/Atty. for mv.

MOTION FOR RELIEF FROM
AUTOMATIC STAY
11-12-14 [[12](#)]

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.

5. [14-10987](#)-B-7 SCOTT HEITZIG
PPR-1
BANK OF AMERICA, N.A./MV
ALBERT GARCIA/Atty. for dbt.
CASSANDRA RICHEY/Atty. for mv.
DISCHARGED

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-16-14 [[42](#)]

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.

11:00 A.M.

1. [14-14435](#)-B-7 GILBERTO/MARLENE RIVAS REAFFIRMATION AGREEMENT WITH
HYUNDAI MOTOR FINANCE
10-29-14 [[13](#)]

THOMAS GILLIS/Atty. for dbt.

The court intends to deny approval of this reaffirmation agreement. The debtors' attorney signed the reaffirmation agreement certifying that he has explained the agreement to the debtors, but did not check the box to state an opinion that the reaffirmed debt will not create an undue hardship, and affirmatively indicated that he could not recommend the reaffirmation agreement. The reaffirmation agreement and 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. [14-14751](#)-B-7 RHONDA/GEORGE JARAMILLO PRO SE REAFFIRMATION AGREEMENT
WITH SPRINGLEAF FINANCIAL
SERVICES, INC.
10-28-14 [\[18\]](#)

3. [14-13655](#)-B-7 JOSE/MARCELA PEREZ REAFFIRMATION AGREEMENT WITH AMERICAN HONDA FINANCE CORP. 10-24-14 [17]

THOMAS GILLIS/Atty. for dbt.

The court intends to deny approval of this reaffirmation agreement. The debtors' attorney signed the reaffirmation agreement certifying that he has explained the agreement to the debtors, but did not check the box to state an opinion that the reaffirmed debt will not create an undue hardship. The reaffirmation agreement and 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.

4. [14-14470](#)-B-7 JERI REXFORD PRO SE REAFFIRMATION AGREEMENT
WITH AMERICAN HONDA FINANCE
CORP
10-29-14 [\[11\]](#)

ROSALINA NUNEZ/Atty. for dbt.

The debtors' attorney signed the reaffirmation agreement certifying that she has explained the agreement to the debtors, but did not check the box to state an opinion that the reaffirmed debt will not create an undue hardship. In addition, the reaffirmation agreement is incomplete and does not meet the requirements of 11 U.S.C. § 524. It is therefore not enforceable against the debtors and cannot be approved. *In re Lopez*, 274 B.R. 854, 861-62 (9th Cir. BAP 2002), *aff'd*, 345 F.3d 701 (9th Cir. CA 2003). Part D is blank and does not contain the debtor's financial information. The Debtor shall have 14 days to refile the reaffirmation agreement properly completed. The hearing will be dropped from calendar. No appearance is necessary.

5. [14-14870](#)-B-7 JEFFREY/ASHLEY SANCHEZ PRO SE REAFFIRMATION AGREEMENT
WITH AMERICAN AUTO FINANCING
INC.
11-6-14 [[14](#)]
 6. [14-14783](#)-B-7 STEVEN/ERIN PORTUGAL PRO SE REAFFIRMATION AGREEMENT
WITH AMERICAN AUTO FINANCING
INC.
10-30-14 [[12](#)]
 7. [14-14783](#)-B-7 STEVEN/ERIN PORTUGAL PRO SE REAFFIRMATION AGREEMENT
WITH AMERICREDIT FINANCIAL
SERVICES, INC.
10-31-14 [[15](#)]
 8. [14-14783](#)-B-7 STEVEN/ERIN PORTUGAL PRO SE REAFFIRMATION AGREEMENT
WITH AMERICREDIT FINANCIAL
SERVICES, INC.
10-31-14 [[17](#)]
 9. [14-14185](#)-B-7 CHIVFEEJ MOUA PRO SE REAFFIRMATION AGREEMENT
WITH TOYOTA MOTOR CREDIT
CORPORATION
10-29-14 [[18](#)]
 10. [14-14198](#)-B-7 JOSE GONZALEZ AND BEATRIZ REAFFIRMATION AGREEMENT WITH
PICENO TOYOTA MOTOR CREDIT CORPORATION
10-29-14 [[15](#)]
- THOMAS GILLIS/Atty. for dbt.

The court intends to deny approval of this reaffirmation agreement. The debtors' attorney signed the reaffirmation agreement certifying that he or she has explained the agreement to the debtors, 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.