

**UNITED STATES BANKRUPTCY COURT**  
**Eastern District of California**  
**Honorable W. Richard Lee**  
**Hearing Date: Thursday, December 18, 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.UNITED

9:00 A.M.

1. [14-10344](#)-B-12 ANTONIO/LUCIA PARREIRA MOTION TO COMPROMISE  
WW-16 CONTROVERSY/APPROVE SETTLEMENT  
ANTONIO PARREIRA/MV AGREEMENT WITH A. L. GILBERT  
COMPANY  
11-19-14 [[307](#)]  
RILEY WALTER/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. 14-13949-B-11 FAREED SAPHIEH CONTINUED MOTION FOR RELIEF  
GCL-1 FROM AUTOMATIC STAY  
SEACOAST COMMERCE BANK/MV 10-9-14 [45]  
PETER FEAR/Atty. for dbt.  
GEORGE LAZAR/Atty. for mv.  
RESPONSIVE PLEADING

3. [14-10588](#)-B-11 J & D WILSON AND SONS  
KDG-25 DAIRY  
J & D WILSON AND SONS DAIRY/MV  
JACOB EATON/Atty. for dbt.  
RESPONSIVE PLEADING

OMNIBUS OBJECTION TO CLAIMS  
10-27-14 [[393](#)]

Based on the court's review of the pleading, and the Respondent's opposition, the court cannot yet make a ruling on the claim objection and it does not appear that a hearing would be productive at this time. Accordingly, this matter will be continued to January 29, 2015, at 9:00 a.m. No appearance is necessary. This matter is deemed to be a contested matter and the federal rules of civil procedure shall apply to the discovery. The parties shall commence formal discovery immediately.

The Debtor seeks a determination, *inter alia*, that all of its obligations to the Respondent under two "orally modified" leases have been satisfied. To prevail, the Debtor must first establish that the leases have in fact been modified pursuant to applicable law, and obtain declaratory relief as to the modified terms. The Debtor must pursue the "oral modification" issue by way of a properly pled adversary proceeding to determine the nature and extent of the Debtor's interest in the leased property and declaratory relief regarding the modified terms of the leases (FRBP 7001(2) and (9)). Pursuant to FRBP 3007(b), relief of the kind specified in Rule 7001 cannot be included in a claim objection. Alternatively, the Respondent must affirmatively waive the procedural protections of an adversary proceeding and consent to entry of a declaratory judgment by way of a noticed contested matter. See *In re Hayden*, 477 B.R. 260, 264, n.3 (Bankr. N.D. Ga, 2012). Once the "oral modification" issue is ready for trial, the court intends to bifurcate the modification and accounting issues and try the modification issue first. Unless the Debtor can show that the written leases were actually modified in compliance with applicable law, and establish with some degree of certainty the terms of the "modified" leases, then the claim objection will merely require an accounting of the payments that have been made according to the terms of the existing documents. The court will prepare a minute order.

10:00 A.M.

1. [14-15004](#)-B-7 ERIC POOLE MOTION FOR DENIAL OF DISCHARGE  
UST-1 OF DEBTOR UNDER 11 U.S.C.  
TRACY DAVIS/MV SECTION 727(A)  
11-13-14 [[15](#)]  
  
JEFF REICH/Atty. for dbt.  
ROBIN TUBESING/Atty. for mv.

**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 court finds that the debtor is not eligible for a chapter 7 discharge. The moving party shall submit a proposed order. No appearance is necessary.**

2. [14-14411](#)-B-7 VIRGINIA/EMILIO MAGDALENO MOTION TO EMPLOY GOULD AUCTION  
TMT-1 & APPRAISAL COMPANY AS  
TRUDI MANFREDO/MV AUCTIONEER, AUTHORIZING SALE OF  
PROPERTY AT PUBLIC AUCTION AND  
AUTHORIZING PAYMENT OF  
AUCTIONEER FEES AND EXPENSES  
11-25-14 [[12](#)]  
  
MARIO LANGONE/Atty. for dbt.  
TRUDI MANFREDO/Atty. for mv.

**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.**

3. [14-14340](#)-B-7 ESMERALDA ROBLES MOTION TO AVOID LIEN OF MANUEL  
PBB-2 HERNANDEZ  
ESMERALDA ROBLES/MV 11-20-14 [[23](#)]  
PETER BUNTING/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.**

4. [14-10871](#)-B-7 ANN HOSIER-HARDCASTLE MOTION TO COMPEL ABANDONMENT  
PBB-1 11-20-14 [[50](#)]  
ANN HOSIER-HARDCASTLE/MV  
PETER BUNTING/Atty. for dbt.

5. [14-10282](#)-B-7 DELIA RUIZ

CHAPTER 7 TRUSTEE'S FINAL  
REPORT, APPLICATION FOR  
COMPENSATION AND APPLICATIONS  
FOR COMPENSATION OF  
PROFESSIONALS FILED ON BEHALF  
OF TRUSTEE PETER L. FEAR  
10-24-14 [[36](#)]

MARK ZIMMERMAN/Atty. for dbt.  
PETER FEAR/Atty. for mv.

**Based on the trustee's response, this matter will be rescheduled to January 29, 2014, at 10:00 a.m. The court will prepare a minute order. No appearance is necessary.**

6. [14-14382](#)-B-7 CRAIG/ANGELA MUNDY  
MAS-1  
MUFG UNION BANK, N.A./MV

MOTION TO EXTEND DEADLINE TO  
FILE A COMPLAINT OBJECTING TO  
DISCHARGE OF THE DEBTOR AND/OR  
MOTION TO EXTEND DEADLINE TO  
FILE A COMPLAINT OBJECTING TO  
DISCHARGEABILITY OF A DEBT  
11-18-14 [[21](#)]

VINCENT RENDA/Atty. for dbt.  
MARK SERLIN/Atty. for mv.

**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 60 day time limits in Rules 4004(a) and 4007(c) shall be extended for the movant only to January 30, 2015. The moving party shall submit a proposed order. No appearance is necessary.**

7. [14-14189](#)-B-7 LUKA YANG AND SHENG VANG  
JES-2  
JAMES SALVEN/MV

MOTION TO SELL AND/OR MOTION  
FOR COMPENSATION FOR BAIRD'S  
AUCTION AND APPRAISALS,  
AUCTIONEER(S).  
11-14-14 [[21](#)]

LAYNE HAYDEN/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 trustee will be authorized to employ an auctioneer and sell the estate's interest only in the automobile. Based on the debtors' schedules, it appears that the automobile may be co-owned by a non-debtor party. Any sale of the co-owner's interest in the automobile, without the co-owner's consent, will require the commencement of an adversary proceeding. FRBP 7001(3). The moving party shall submit a proposed order consistent with this ruling. No appearance is necessary.**

10:30 A.M.

1.    [14-15314](#)-B-7    GORDON/BRITTANY SMITH                   MOTION FOR RELIEF FROM  
          RDW-2   AUTOMATIC STAY  
          CAM VII TRUST/MV                                       12-3-14 [[24](#)]  
          MARK ZIMMERMAN/Atty. for dbt.  
          REILLY WILKINSON/Atty. for mv.
  
2.    [12-10946](#)-B-7    RONALD/CATHERINE                   MOTION FOR RELIEF FROM  
          EAT-1   AUTOMATIC STAY  
          THE BANK OF NEW YORK MELLON/MV                   11-13-14 [[130](#)]  
          PETER BUNTING/Atty. for dbt.  
          DARLENE VIGIL/Atty. for mv.  
          DISCHARGED

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.

3. [13-17980](#)-B-7 CHARLES CHOLMAKJIAN  
APN-2  
FORD MOTOR CREDIT COMPANY/MV  
JOEL FEINSTEIN/Atty. for dbt.  
AUSTIN NAGEL/Atty. for mv.

AMENDED MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
11-19-14 [[65](#)]

**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. [13-17980](#)-B-7 CHARLES CHOLMAKJIAN  
DJP-1  
PROVIDENT MORTGAGE  
CORPORATION/MV  
JOEL FEINSTEIN/Atty. for dbt.  
DON POOL/Atty. for mv.

MOTION FOR RELIEF FROM  
AUTOMATIC STAY  
11-25-14 [[75](#)]

**11:00 A.M.**

1. [14-15326](#)-B-7 MICHAEL CORTEZ

PRO SE REAFFIRMATION AGREEMENT  
WITH SPRINGLEAF FUNDING TRUST  
2013-A  
11-25-14 [[13](#)]



**1:30 A.M.**

1. [14-10005](#)-B-13 STEVEN/KATHERINE JANTZ MOTION TO CONFIRM PLAN  
WJC-10 11-5-14 [[103](#)]  
STEVEN JANTZ/MV  
WILLIAM COLLIER/Atty. for dbt.
2. [12-16812](#)-B-13 RICHARD LIMA OBJECTION TO CLAIM OF NAVIENT  
HDN-2 SOLUTIONS, INC., CLAIM NUMBER  
RICHARD LIMA/MV 10  
10-31-14 [[48](#)]  
HENRY NUNEZ/Atty. for dbt.

The objection will be sustained as modified below. Claim registry #7, filed by Navient Solutions, Inc., was untimely and will not receive any distribution in this chapter 13 proceeding. However, if this case is converted to a case under any other chapter, and a new bar date is set for the filing of claims, this claim shall be deemed timely and, in the absence of a new objection, shall be allowed pursuant to 11 U.S.C. § 502(a), without the necessity of filing a new proof of claim. The objecting party shall submit a proposed order consistent with this ruling. No appearance is necessary.

3. DANIEL/CHERYL HARVAT MOTION TO CONFIRM PLAN  
MJA-3 10-31-14 [[26](#)]  
DANIEL HARVAT/MV  
MICHAEL ARNOLD/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.

4. [14-10431](#)-B-13 ANTHONY/CHERI BEASLEY MOTION TO INCUR DEBT  
GH-4 12-3-14 [[73](#)]  
ANTHONY BEASLEY/MV  
GARY HUSS/Atty. for dbt.
5. [13-12954](#)-B-13 JOHN SMITH AND KIMBERLY MOTION TO MODIFY PLAN  
JMA-2 GRACE-SMITH 11-10-14 [[34](#)]  
JOHN SMITH/MV  
JOSEPH ARNOLD/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.

6. [14-14555](#)-B-13 IRENE ORNELAS  
MHM-1

OBJECTION TO CONFIRMATION OF  
PLAN BY TRUSTEE MICHAEL H.  
MEYER  
11-25-14 [[19](#)]

TIMOTHY SPRINGER/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 January 29, 2015, at 1:30 p.m. Unless this case is voluntarily converted to chapter 7 or dismissed or the objection has been withdrawn, the debtor shall file and serve a written response not later than January 15, 2015. 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 debtor's position. If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than January 22, 2015. If the debtor does not timely file a modified plan or a written response, the objection will be sustained on the grounds stated and confirmation will be denied without a further hearing. The court will prepare a civil minute order.

7. [14-13571](#)-B-13 LEONARD/ROSELINE DUVAL  
PLG-1  
LEONARD DUVAL/MV  
CHELSEA RYAN/Atty. for dbt.

MOTION TO CONFIRM PLAN  
11-4-14 [[29](#)]

The motion will be continued to January 7, 2015, at 1:30 p.m. The form of the proof of service does not comply with LBR 9014-1(d)(1) and needs to be amended (see Local Rules, Appendix II, EDC.002-901, Revised Guidelines for the Preparation of Documents (4)(e)). The court will prepare a minute order. No appearance is necessary.

8. [14-14074](#)-B-13 DAVID ALMANZA  
MHM-1

OBJECTION TO CONFIRMATION OF  
PLAN BY TRUSTEE MICHAEL H.  
MEYER  
11-25-14 [[22](#)]

HENRY NUNEZ/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 January 29, 2015, at 1:30 p.m. Unless this case is voluntarily converted to chapter 7 or dismissed or the objection has been withdrawn, the debtor shall file and serve a written response not later than January 15, 2015. 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 debtor's position. If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than January 22, 2015. If the debtor does not timely file a modified plan or a written response, the objection will be sustained on the grounds stated and confirmation will be denied without a further hearing. The court will prepare a civil minute order.

9. [14-14989](#)-B-13 ARTHUR BELL  
MHM-1

OBJECTION TO CONFIRMATION OF  
PLAN BY TRUSTEE MICHAEL H.  
MEYER  
11-25-14 [[14](#)]

TIMOTHY SPRINGER/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 January 29, 2015, at 1:30 p.m. Unless this case is voluntarily converted to chapter 7 or dismissed or the objection has been withdrawn, the debtor shall file and serve a written response not later than January 15, 2015. 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 debtor's position. If the debtor elects to withdraw this plan and file a modified plan in lieu of filing a response, then a confirmable modified plan shall be filed, served, and set for hearing, not later than January 22, 2015. If the debtor does not timely file a modified plan or a written response, the objection will be sustained on the grounds stated and confirmation will be denied without a further hearing. The court will prepare a civil minute order.

10. [14-14989](#)-B-13 ARTHUR BELL  
MVF-1  
BANK OF AMERICA, N.A./MV  
TIMOTHY SPRINGER/Atty. for dbt.  
MATTHEW VAN FLEET/Atty. for mv.

OBJECTION TO CONFIRMATION OF  
PLAN BY BANK OF AMERICA, N.A.  
11-26-14 [[17](#)]

**This objection to confirmation was noticed as a preliminary hearing. The objection will be continued and set for a final hearing on January 29, 2015, at 1:30 p.m. It appears to the court that this objection can be resolved by stipulation of the parties in the confirmation order if the debtor does not file a modified plan. No appearance is necessary.**

**Unless this case is voluntarily converted to chapter 7 or dismissed or the objection has been withdrawn, the debtor shall file and serve a written response not later than January 15, 2015. 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 debtor's position.**

11. [14-14892](#)-B-13 PATRICIA TAYLOR  
PD-1  
HOUSEHOLD FIN CORP OF  
CALIFORNIA/MV  
RANDY RISNER/Atty. for dbt.  
JONATHAN CAHILL/Atty. for mv.

OBJECTION TO CONFIRMATION OF  
PLAN BY HOUSEHOLD FIN CORP OF  
CALIFORNIA  
11-24-14 [[20](#)]

**This objection will be deemed to apply to the first modified plan filed on December 15, 2014. The hearing will be continued to January 29, 2015, at 1:30 p.m. to be called with the debtor's motion to confirm the first modified plan. Unless the objection is fully resolved in the modified plan, the debtor shall file and serve her response to the objection, with supporting evidence, by January 15, 2015. The court will prepare a minute order. No appearance is necessary.**

12. [14-10005](#)-B-13 STEVEN/KATHERINE JANTZ  
PPR-1  
THE BANK OF NEW YORK MELLON/MV  
  
WILLIAM COLLIER/Atty. for dbt.  
MELISSA VERMILLION/Atty. for mv.

OBJECTION TO CONFIRMATION OF  
PLAN BY THE BANK OF NEW YORK  
MELLON  
12-12-14 [[113](#)]