

UNITED STATES BANKRUPTCY COURT  
Eastern District of California  
Honorable W. Richard Lee  
Hearing Date: Tuesday, December 23, 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. [13-16954](#)-B-11 MADERA ROOFING, INC.  
GC-5  
GABRIELSON & COMPANY/MV  
  
ERIC FROMME/Atty. for dbt.  
  
MOTION FOR COMPENSATION FOR  
GARBRIELSON AND COMPANY,  
ACCOUNTANT(S) .  
12-2-14 [[684](#)]
2. [13-16954](#)-B-11 MADERA ROOFING, INC.  
WW-28  
  
ERIC FROMME/Atty. for dbt.  
  
MOTION FOR COMPENSATION BY THE  
LAW OFFICE OF WALTER AND  
WILHELM LAW GROUP FOR RILEY C.  
WALTER, TRUSTEE'S ATTORNEY(S) .  
12-2-14 [[697](#)]
3. [13-16954](#)-B-11 MADERA ROOFING, INC.  
WW-29  
JAMES LOWE/MV  
  
ERIC FROMME/Atty. for dbt.  
RILEY WALTER/Atty. for mv.  
  
MOTION FOR COMPENSATION FOR  
JAMES S. LOWE, CHAPTER 11  
TRUSTEE(S) .  
12-2-14 [[691](#)]
4. [13-16954](#)-B-11 MADERA ROOFING, INC.  
WW-30  
JAMES LOWE/MV  
ERIC FROMME/Atty. for dbt.  
RILEY WALTER/Atty. for mv.  
  
MOTION TO BORROW  
12-11-14 [[716](#)]
5. [13-16954](#)-B-11 MADERA ROOFING, INC.  
WW-31  
JAMES LOWE/MV  
ERIC FROMME/Atty. for dbt.  
RILEY WALTER/Atty. for mv.  
OST 12/15/14  
  
MOTION FOR AUTHORITY TO USE  
PROPERTY OF THE ESTATE  
12-15-14 [[737](#)]
6. [12-17458](#)-B-11 SOUTH LAKES DAIRY FARM,  
WW-10 A CALIFORNIA GENERAL  
SOUTH LAKES DAIRY FARM, A  
CALIFORNIA GENERAL  
  
JACOB EATON/Atty. for dbt.  
  
MOTION TO COMPROMISE  
CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH C.P. PHELPS,  
INC.  
12-1-14 [[626](#)]

7. [12-17458](#)-B-11 SOUTH LAKES DAIRY FARM,  
WW-11 A CALIFORNIA GENERAL  
SOUTH LAKES DAIRY FARM, A  
CALIFORNIA GENERAL  
JACOB EATON/Atty. for dbt.
- MOTION TO COMPROMISE  
CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH SELEY & COMPANY  
12-1-14 [[632](#)]
8. [12-17458](#)-B-11 SOUTH LAKES DAIRY FARM,  
WW-7 A CALIFORNIA GENERAL  
SOUTH LAKES DAIRY FARM, A  
CALIFORNIA GENERAL  
JACOB EATON/Atty. for dbt.
- MOTION TO COMPROMISE  
CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH NUTRIUS, LLC  
12-1-14 [[608](#)]
9. [12-17458](#)-B-11 SOUTH LAKES DAIRY FARM,  
WW-8 A CALIFORNIA GENERAL  
SOUTH LAKES DAIRY FARM, A  
CALIFORNIA GENERAL  
  
JACOB EATON/Atty. for dbt.
- MOTION TO COMPROMISE  
CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH WESTERN MILLING,  
LLC  
12-1-14 [[614](#)]
10. [12-17458](#)-B-11 SOUTH LAKES DAIRY FARM,  
WW-9 A CALIFORNIA GENERAL  
SOUTH LAKES DAIRY FARM, A  
CALIFORNIA GENERAL  
JACOB EATON/Atty. for dbt.
- MOTION TO COMPROMISE  
CONTROVERSY/APPROVE SETTLEMENT  
AGREEMENT WITH PITIGLIANO FARMS  
12-1-14 [[620](#)]

10:00 A.M.

1. [13-11508](#)-B-7 CANDACE SPENCE  
DRJ-3

MOTION FOR COMPENSATION FOR  
DAVID R. JENKINS, TRUSTEE'S  
ATTORNEY(S) .  
11-11-14 [[52](#)]

This motion will be continued to January 16, 2015, at 10:00 a.m., for supplemental evidence. The applicant was employed to serve as the chapter 7 trustee's attorney. The trustee has not yet filed her/his final report and request for compensation. Based on the evidence presented in support of the motion, the court cannot tell if the applicant's services are concluded and cannot evaluate the necessity, reasonableness, and benefit of the applicant's services. No appearance is necessary.

2. [12-60444](#)-B-7 CARLOS/MARIA GUTIERREZ  
DRJ-5

MOTION FOR COMPENSATION FOR  
DAVID R. JENKINS, TRUSTEE'S  
ATTORNEY(S)  
11-11-14 [[205](#)]

THOMAS GILLIS/Atty. for dbt.

This motion will be continued to January 16, 2015, at 10:00 a.m., for supplemental evidence. The applicant was employed to serve as the chapter 7 trustee's attorney. The trustee has not yet filed her/his final report and request for compensation. Based on the evidence presented in support of the motion, the court cannot tell if the applicant's services are concluded and cannot evaluate the necessity, reasonableness, and benefit of the applicant's services. No appearance is necessary.

3. [13-17956](#)-B-7 LELAND GOYER  
PFT-2  
PETER FEAR/MV  
WILLIAM COLLIER/Atty. for dbt.  
PETER FEAR/Atty. for mv.

MOTION TO SELL  
12-2-14 [[24](#)]

11:00 A.M.

- |    |                               |                          |   |
|----|-------------------------------|--------------------------|---|
| 1. | <a href="#">14-14867</a> -B-7 | MARK/TERI MURPHY         | PRO SE REAFFIRMATION AGREEMENT<br>WITH STATE FARM BANK, FSB<br>12-4-14 [ <a href="#">17</a> ]                     |
| 2. | <a href="#">14-14896</a> -B-7 | JULIE LUNA               | PRO SE REAFFIRMATION AGREEMENT<br>WITH FIRST CALIFORNIA FEDERAL<br>CREDIT UNION<br>12-8-14 [ <a href="#">12</a> ] |
|    |                               | GARY HUSS/Atty. for dbt. |   |

The hearing will be dropped from calendar. The court is not approving or denying approval of the reaffirmation agreement. Debtor(s) was (were) represented by counsel when she entered into the reaffirmation agreement. Pursuant to 11 U.S.C. § 524(c)(3), "if the debtor is represented by counsel, the agreement *must* be accompanied by an affidavit of the debtor's attorney attesting to the referenced items before the agreement will have legal effect." *In re Minardi*, 399 B.R. 841, 846 (Bankr. N.D. Ok, 2009) (emphasis in original). The reaffirmation agreement, in the absence of a declaration by debtor's counsel, does not meet the requirements of 11 U.S.C. § 524(c) and is not enforceable. The Debtor shall have 14 days to refile the reaffirmation agreement properly signed and endorsed by the attorney. No appearance is necessary at this hearing.

1:30 P.M.

1. 10-10221-B-13 MANNY/MILAGROS MANGAYAO MOTION TO DISMISS CASE FOR  
MHM-1 FAILURE TO MAKE PLAN PAYMENTS  
MICHAEL MEYER/MV 11-6-14 [68]  
VINCENT GORSKI/Atty. for dbt.  
WITHDRAWN

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

- |      |   |  |  |
|------|---|--|--|
| 2.   | <a href="#"><u>12-11021</u></a> -B-13 YVETTE TANGUMA<br>WAR-4<br>YVETTE TANGUMA/MV<br>WILLIAM ROMAINE/Atty. for dbt.<br>RESPONSIVE PLEADING |  | MOTION TO MODIFY PLAN<br>11-17-14 [ <a href="#"><u>81</u></a> ]                                    |
| <br> |   |  |  |
| 3.   | <a href="#"><u>14-14028</u></a> -B-13 GEORGETTE AVEDIKIAN<br>DRJ-2<br>GEORGETTE AVEDIKIAN/MV<br>DAVID JENKINS/Atty. for dbt.                |  | MOTION TO VALUE COLLATERAL OF<br>JPMORGAN CHASE BANK, NA<br>10-26-14 [ <a href="#"><u>33</u></a> ] |

This matter will be continued to January 29, 2014, at 1:30 p.m. for supplemental briefing. The debtor proposes to value the rental property located on Emerson Avenue and modify the junior lien holder's claim through the chapter 13 plan for the apparent purpose of stripping the junior lien at the conclusion of the case. The Emerson Avenue property is co-owned by a non-debtor party. The debtor needs to file supplemental authority for the proposition that a claim secured by co-owned property can be modified and subsequently stripped through one co-owner's chapter 13 plan. The court will prepare a minute order. No appearance is necessary.

4. [14-14028](#)-B-13 GEORGETTE AVEDIKIAN  
DRJ-3  
GEORGETTE AVEDIKIAN/MV  
DAVID JENKINS/Atty. for dbt.  
RESPONSIVE PLEADING

MOTION TO CONFIRM PLAN  
10-26-14 [[36](#)]

**This motion to confirm a modified chapter 13 plan will be denied without prejudice. The record does not show that the debtor served the proposed modified plan with the moving papers in compliance with Local Rule 3015-1(c)(3) & (d)(1). No appearance is necessary.**

**The trustee has filed numerous objections which need to be addressed, if possible, in a modified plan.**

**Finally, it appears that the modified plan provides for full payment of a partially unsecured claim in favor of Fresno County Federal Credit Union. The credit union has filed a claim in the amount of \$145,577 secured by the Emerson Avenue rental property which the debtor values at only \$118,000. The debtor has no apparent intent to value the credit union's collateral and the modified plan only provides for a 12.08% dividend to the other unsecured creditors. The modified plan therefore appears to unfairly discriminate in favor of the credit union.**

5. [13-17931](#)-B-13 MARY BRIXEY  
DRJ-3  
MARY BRIXEY/MV  
DAVID JENKINS/Atty. for dbt.

MOTION TO MODIFY PLAN  
11-2-14 [[44](#)]

**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. [14-11631](#)-B-13 IKWINDER KAUR  
MHM-1  
MICHAEL MEYER/MV

CONTINUED MOTION TO DISMISS  
CASE FOR UNREASONABLE DELAY  
THAT IS PREJUDICIAL TO  
CREDITORS AND/OR MOTION TO  
DISMISS CASE  
11-10-14 [[41](#)]

EDDIE RUIZ/Atty. for dbt.  
DISMISSED

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

7. [11-60434](#)-B-13 RICHARD/DIANE MICHAUD  
DRJ-3  
RICHARD MICHAUD/MV

OBJECTION TO CLAIM OF INTERNAL  
REVENUE SERVICE, CLAIM NUMBER  
17  
9-23-14 [[54](#)]

DAVID JENKINS/Atty. for dbt.

The objection will be sustained as modified below. Claim # 17 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.

8. [12-17857](#)-B-13 RANULFO ALMANZA AND  
SL-5 CARMEN FLORES ALMANZA  
RANULFO ALMANZA/MV  
SCOTT LYONS/Atty. for dbt.

MOTION TO MODIFY PLAN  
11-14-14 [[61](#)]

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.

9. [13-15657](#)-B-13 GARY SAMPLEY  
PK-6  
GARY SAMPLEY/MV  
PATRICK KAVANAGH/Atty. for dbt.  
OST 12/9/14

MOTION TO SELL  
12-10-14 [[102](#)]



10. [14-14757](#)-B-13 JOSE GARCIA AND ELVIA  
TOG-1 GALLARDO  
JOSE GARCIA/MV  
THOMAS GILLIS/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF  
BANK OF AMERICA, N.A.  
11-19-14 [[25](#)]

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.*

11. [14-14163](#)-B-13 MANUEL/RISSY MONTOYA  
ASW-1  
MANUEL MONTOYA/MV

CONTINUED MOTION TO VALUE  
COLLATERAL OF DEUTSCHE BANK  
NATIONAL TRUST COMPANY  
10-17-14 [[31](#)]

ADRIAN WILLIAMS/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.*

12. [14-14163](#)-B-13 MANUEL/RISSY MONTOYA CONTINUED MOTION TO CONFIRM  
ASW-2 PLAN  
MANUEL MONTOYA/MV 10-17-14 [[37](#)]  
ADRIAN WILLIAMS/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.**

13. [14-13573](#)-B-13 GREGORY/HEATHER VITUCCI MOTION TO CONFIRM PLAN  
HDN-3 11-13-14 [[67](#)]  
GREGORY VITUCCI/MV  
HENRY NUNEZ/Atty. for dbt.

**This motion to confirm a modified chapter 13 plan will be denied without prejudice. The record does not show that the debtors served the proposed modified plan with the moving papers in compliance with Local Rule 3015-1(c) (3) & (d) (1). No appearance is necessary.**

14. [14-14477](#)-B-13 RICHIE/YESENIA CHOI CONTINUED MOTION TO VALUE  
PBB-2 COLLATERAL OF SYNCHRONY  
RICHIE CHOI/MV FINANCIAL  
10-21-14 [[22](#)]  
PETER BUNTING/Atty. for dbt.

**The motion has been withdrawn. No appearance is necessary.**

15. [14-14477](#)-B-13 RICHIE/YESENIA CHOI CONTINUED MOTION TO VALUE  
PBB-3 COLLATERAL OF SYNCHRONY  
RICHIE CHOI/MV FINANCIAL  
10-21-14 [[28](#)]  
PETER BUNTING/Atty. for dbt.

**The motion has been withdrawn. No appearance is necessary.**

16. [14-14477](#)-B-13 RICHIE/YESENIA CHOI CONTINUED MOTION TO VALUE  
PBB-4 COLLATERAL OF SYNCHRONY  
RICHIE CHOI/MV FINANCIAL  
10-21-14 [[34](#)]  
PETER BUNTING/Atty. for dbt.

**The motion has been withdrawn. No appearance is necessary.**

17. [14-13286](#)-B-13 OSCAR GARCIA MOTION TO CONFIRM PLAN

TOG-2  
OSCAR GARCIA/MV  
THOMAS GILLIS/Atty. for dbt.

11-6-14 [[35](#)]

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. [10-60788](#)-B-13 VIRGINIA SOTO  
MHM-1

OBJECTION TO THE WITHDRAWAL AND  
THE ALLOWANCE OF CLAIM #7  
11-7-14 [[34](#)]

ADRIAN 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.

19. [10-16398](#)-B-13 DENNIS/KATHLEEN THOMPSON  
MHM-2  
MICHAEL MEYER/MV  
DAVID JENKINS/Atty. for dbt.  
WITHDRAWN

MOTION TO DISMISS CASE FOR  
FAILURE TO MAKE PLAN PAYMENTS  
11-6-14 [[72](#)]

The trustee's motion has been withdrawn.

20. [14-15098](#)-B-13 SAMUEL ACEVEDO AND DEBBIE  
PBB-1 SURROCK  
SAMUEL ACEVEDO/MV  
PETER BUNTING/Atty. for dbt.

MOTION TO VALUE COLLATERAL OF  
PASSADORI'S INC.  
11-25-14 [[14](#)]

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 \$2,000. 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.

21. [14-15848](#)-A-13 LARRY/TEODORICA BALDWIN  
PBB-1  
LARRY BALDWIN/MV  
PETER BUNTING/Atty. for dbt.

MOTION TO EXTEND AUTOMATIC STAY  
12-16-14 [[10](#)]

2:00 P.M.

1. [14-14718](#)-B-7 REAGAN SHANNON STATUS CONFERENCE RE: COMPLAINT  
[14-1129](#) 10-28-14 [[1](#)]  
SHANNON V. CITIBANK (SOUTH  
DAKOTA), N.A. ET AL  
JEFF REICH/Atty. for pl.  
RESPONSIVE PLEADING

**This matter has been rescheduled by stipulation of the parties who have appeared to January 29, 2015, at 9:00 a.m. No appearance is necessary.**

2. [14-14327](#)-B-7 GEORGIA LAMBERT STATUS CONFERENCE RE: COMPLAINT  
[14-1124](#) 10-21-14 [[1](#)]  
LAMBERT V. COLLECT ACCESS, LLC  
RICHARD HARRIS/Atty. for pl.  
DISMISSED

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

3. [12-60054](#)-B-7 DWIGHT/NELLIE LONG STATUS CONFERENCE RE: COMPLAINT  
[14-1123](#) 10-16-14 [[1](#)]  
HAWKINS, . V. DE GOEDE  
ROBERT HAWKINS/Atty. for pl.  
DISMISSED, CLOSED

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