

**U.S. BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

**Honorable Stephen L. Johnson
Thursday, January 15, 2015**

Current as of 1/12/2015 at 4:26 PM

San Jose Courtroom 3099

**U.S. Courthouse and Federal Bldg.
280 S 1st Street
San Jose, CA 95113**

10:00 AM **08-51536** Fred C. Beyers and
Ch 13 Christine A. Beyers
Trustee: Derham-Burk

Moving: Jason Vogelpohl

Opposing:

Matter: **Motion to Impose Sanctions Against A.S.A.P. Collections for Violation of the Discharge Injunction (11 U.S.C. §§ 105, 524(a)) Filed by Debtor (66) (fr 12/18)**

1

Comment **Tentative Ruling: Movant informed the court this matter was resolved at last hearing. No stipulation or settlement filed. Is this matter resolved?**

10:00 AM **10-61932** Kermit F. Dirkson
Ch 13
Trustee: Derham-Burk

Moving: David A. Boone

Opposing: Raffi Khatchadourian

Matter: **a) Motion to Void and Expunge Judicial Liens on Residential Real Property Recorded in Violation of the Automatic Stay (2936 Varden Avenue San Jose, CA 95124) Filed by Debtor (57)**

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b) Opposition by Comerica Bank

Comment **Tentative Ruling: Grant motion; Comerica violated the stay in the second bankruptcy case by requesting a default and recording a lien. Reqst for additional time denied as BLR requires timely response and P&A. Value is irrelevant.**

10:00 AM **12-50939** Donna Dell Solus
Ch 13
Trustee: Derham-Burk

Moving: David A. Boone

Opposing: Bonni S. Mantovani

Matter: **a) Motion to Modify Chapter 13 Plan Filed by Debtor (60) (fr 11/20)**

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b) Opposition by U.S. Bank N.A.

c) Opposition by Trustee

Comment **Tentative Ruling: Matter will be called.**

10:00 AM **13-50053** Joseph S Mini
Ch 13
Trustee: Derham-Burk

Moving: Devin L. Pace

Opposing:

Matter: **Motion to Dismiss Case for Failure to Make Plan Payments Pre-Confirmation Filed by Trustee (70) (fr 11/20)**

Comment **Tentative Ruling: No opposition filed. Granted.**

4

10:00 AM **13-51839** Gary W Buck and
Ch 13 Julie A Buck
Trustee: Derham-Burk

Moving: Devin L. Pace

Opposing: Shawn R. Parr

Matter: **a) Motion to Dismiss Case Pre-Confirmation pursuant to 11 U.S.C. sec. 1307(c)(1) Filed by Trustee (33)**

b) Opposition by Debtor

Comment **Tentative Ruling: Unless case is ready for confirmation, will be dismissed. Since 12/2014, no activity on docket aside from oppo to Trustee's motion.**

5

10:00 AM **13-53669** Charles Robert Payne, III
Ch 13
Trustee: Derham-Burk

Moving: Michael K. Mehr

Opposing:

Matter: **a) Amended Motion to Vacate Dismissal Filed by Debtor (49)**

b) Opposition by Trustee

Comment **Tentative Ruling: Motion denied. Case involves delay that is prejudicial to creditors. Motion itself filed almost 60 days after the case was dismissed.**

6

10:00 AM **13-54250** Mary Michael Rangel
Ch 13
Trustee: Derham-Burk

Moving:

Opposing: Ray D. Hacke

Matter: **a) Hearing re First Amended Objection to Confirmation of Chapter 13 Plan Filed by Trustee (14) *OBJECTION WITHDRAWN 1/8/15**

b) Hearing re Objection to Confirmation of Plan Filed by BANK OF AMERICA, N.A. (21) *OBJECTION WITHDRAWN 12/31/14

Comment **Tentative Ruling: Objections w/drawn. Can Trustee recommend confirmation?**

7

10:00 AM **13-54319** Mario Mateosmartinez

Ch 13

Trustee: Derham-Burk

Moving: Tomas E. Margain

Opposing: Norma L. Hammes

Matter: [Hearing re Objection to Confirmation of Plan Filed by Juan Garibay \(29\)](#)

Comment **Tentative Ruling:** Court inclined to overrule objection of creditor. Objection does not appear premised on the provisions of the Bankruptcy Code. If objecting party contends plan is not feasible, matter will be set for trial.

8

10:00 AM **13-54380** Todd Richard Carpenter and

Ch 13

Kristine Kageura Carpenter

Trustee: Derham-Burk

Moving: Devin L. Pace

Opposing: Lars T. Fuller

Matter: [a\) Motion to Dismiss Case Pre-Confirmation pursuant to 11 U.S.C. sec. 1307\(c\)\(1\) Filed by Trustee \(50\)](#)

[b\) Response by Debtor](#)

Comment **Tentative Ruling:** Court will enter an order giving Debtor 60 days to confirm a plan, or case will be dismissed on the trustee's declaration.

9

10:00 AM **13-54775** Collie C. Turner

Ch 13

Trustee: Derham-Burk

Moving: Stanley A. Zlotoff

Opposing: Lars T. Fuller

Matter: [a\) Trial Setting Hearing re Objection to Confirmation of Plan Filed by Janet Syphers \(12\) \(fr 11/20, 12/18\)](#)

[b\) Motion to Dismiss Case Pre-Confirmation Pursuant to 11 U.S.C. Sec. 1307\(c\)\(1\) Filed by Trustee \(26\)](#)

[c\) Opposition by Debtor](#)

Comment **Tentative Ruling:** Both matters will be called.

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10:00 AM **13-55537** Olga Angelica Jara

Ch 13

Trustee: Derham-Burk

Moving: Devin L. Pace

Opposing: David A. Boone

Matter: [a\) Motion to Dismiss Case For Non-Payment \(Pre-Confirmation\) Pursuant to 11 U.S.C. Sec. 1307\(c\)\(1\) Filed by Trustee \(14\)](#)

[b\) Objection by Debtor](#)

[*Dismissed 1/8/15 for failure to respond to OSC](#)

Comment **Tentative Ruling:** Case dismissed on 1/8/15. Matter dropped from calendar.

11

10:00 AM **13-55613** Virginia Lee Fiorentino
Ch 13
Trustee: Derham-Burk

Moving: Devin L. Pace
Opposing: Scott J. Sagaria

Matter: **a) Motion to Dismiss Case For Non-Payment (Pre-Confirmation) Pursuant to 11 U.S.C. Sec. 1307(c)(1) Filed by Trustee (54)**

12

b) Opposition by Debtor

Comment **Tentative Ruling: Case will be dismissed unless payments (under amended plan) are current. Court will enter an order giving Debtor 60 days to confirm a plan, or case will be dismissed on the trustee's declaration.**

10:00 AM **13-56043** Arturo R Montijo and
Ch 13 Kerry M Montijo
Trustee: Derham-Burk

Moving: Devin L. Pace
Opposing: David S. Henshaw

Matter: **a) Motion to Dismiss Case Pre-Confirmation Pursuant to 11 U.S.C. Sec. 1307(c)(1) Filed by Trustee (23)**

13

b) Opposition by Debtor

Comment **Tentative Ruling: court will enter an order giving Debtor 60 days to confirm a plan, or case will be dismissed on the trustee's declaration.**

10:00 AM **13-56168** Kathy Sparacino
Ch 13
Trustee: Derham-Burk

Moving: Devin L. Pace
Opposing: Patrick Calhoun

Matter: **a) Motion to Dismiss Case Pre-Confirmation Pursuant to 11 U.S.C. Sec. 1307(c)(1) Filed by Trustee (28)**

14

b) Opposition by Debtor

Comment **Tentative Ruling: Court will enter an order giving Debtor 30 days to confirm a plan, or case will be dismissed on the trustee's declaration.**

10:00 AM **14-50119** Zahir Quddus
Ch 13
Trustee: Derham-Burk

Moving: Nanette Dumas
Opposing: David S. Henshaw

15

Matter: **a) Motion to Dismiss Case Pre-confirmation Pursuant to 11 U.S.C. Section 1307(c)(1) Filed by Trustee (28)**

b) Opposition by Debtor

Comment **Tentative Ruling: Court will enter an order giving Debtor 30 days to confirm a plan, or case will be dismissed on the trustee's declaration.**

10:00 AM **14-51722** Susan Reyes
Ch 13
Trustee: Derham-Burk

Moving: Devin L. Pace
Opposing: Susan Reyes

16

Matter: **a) Motion to Dismiss Case Pre-Confirmation Pursuant to 11 U.S.C. Sec. 1307(c)(1) Filed by Trustee (50)**

b) Opposition by Debtor

Comment **Tentative Ruling: Debtor must be current on plan payments or the case will be dismissed. Court will enter an order giving Debtor 60 days to confirm a plan, or case will be dismissed on the trustee's declaration.**

10:00 AM **14-51869** Gladys Saldana
Ch 13
Trustee: Derham-Burk

Moving: Timothy J. Silverman
Opposing: Brette L. Evans

17

Matter: **Hearing re Objection to Confirmation of Plan Filed by PennyMac Holdings, LLC (13)**

Comment **Tentative Ruling: Matter will be dropped from calendar. Court will enter an order giving Debtor 60 days to confirm a plan, or case will be dismissed on the trustee's declaration.**

10:00 AM **14-52824** Julie Frasersmith Fagan
Ch 13
Trustee: Derham-Burk

Moving: David A. Boone
Opposing: Mark D. Estle

18

Matter: **a) Motion to Void And Strip Lien of E*Trade Bank/Specialized Loan Servicing LLC Filed by Debtor (27)**

b) Opposition by Specialized Loan Servicing LLC

Comment **Tentative Ruling: Has creditor obtained an appraisal? If not, how much time does creditor need?**

10:00 AM **14-53436** Michael Jerry Mahn and
Ch 13 Nancy Aguirre Mahn
Trustee: Derham-Burk
Moving: Norma L. Hammes
Opposing:

Matter: **Motion for Order Allowing Sale of Real Property Filed by Debtor (20)**

***Trustee's Statement of Non-Opposition filed 12/30/14**

Comment **Tentative Ruling: Granted.**

19

10:00 AM **14-53499** Denise Castillo
Ch 13
Trustee: Derham-Burk
Moving: Devin L. Pace
Opposing: Theresia C. Sandhu

Matter: **Motion to Dismiss Case Pre-Confirmation Pursuant to 11 U.S.C. Secs. 109(h), 521(b) and 1307(c) Filed by Trustee (26)**

Comment **Tentative Ruling: No timely opposition filed. Motion is granted for reasons stated therein. Trustee to upload order.**

20

10:00 AM **14-53980** Eileen Kempis
Ch 13
Trustee: Derham-Burk
Moving: Devin L. Pace
Opposing: Ronda N. Edgar

Matter: **a) Motion to Dismiss Case Pre-Confirmation Pursuant to 11 U.S.C. Secs. 109(h), 521(b) and 1307(c) Filed by Trustee (21)**

b) Response by Debtor

Comment **Tentative Ruling: Motion is granted. Opposition has no evidentiary support. Phone session is an integral and necessary part of credit counseling and it's not considered complete without the phone session.**

21

10:00 AM **14-54601** Mark Darrell Garriga and
Ch 13 Debra Kaye Garriga
Trustee: Derham-Burk
Moving: David A. Boone
Opposing:

Matter: **Motion to Void and Strip Lien of The Bank of New York Mellon Filed by Debtor (16)**

Comment **Tentative Ruling: Motion is granted. See Docket Text Order.**

22

10:00 AM **14-54721**

Gabriela D. Mendez

Ch 13

Trustee: Derham-Burk

Moving: Anthony Sales

Opposing:

Matter: **Order (1) Denying Motion for Extension of Time for Filing Required Documents and (2) Requiring Debtor to Appear in Person to Show Cause Why this Case should not be dismissed with Prejudice (13)**

23

Comment **Tentative Ruling: This matter will be called.**

UNCONTESTED CALENDAR – CONFIRMATION ADVANCED PER RESOLUTION

JUDGE JOHNSON – January 15, 2015 at 10:00 a.m.

**With respect to the following cases, objections were filed and subsequently withdrawn;
therefore, the Court confirms the following cases:**

The following cases shall be **CONFIRMED**:

- | | |
|--|---------------------------------|
| 24. EME AKPABIO
13-5-4198 SLJ | ATTY – HENSHAW |
| 25. JAY & WENDY WHITAKER
14-5-0057 SLJ | ATTY – BOONE |
| 26. RUBEN & GERALYN VASQUEZ
14-5-2829 SLJ | ATTY – SAGARIA |
| 27. TYRONE & CARRIN HOMUTH
14-5-3435 SLJ | ATTY – SABARATNAM |
| 28. JEFFREY & MARLYN SYLVA
14-5-3598 SLJ | ATTY – MOORE |
| 29. ANDREW PANGILINAN
14-5-3670 SLJ | ATTY – CENTRAL COAST BANKRUPTCY |
| 30. MEHRANGIZ GHahremanizadeh
14-5-4151 SLJ | ATTY – FULLER |
| 31. HECTOR GUTIERREZ
14-5-4498 SLJ | ATTY – FULLER |

The Court has determined that it is in the best interests of creditors and the estates to hold the Confirmation Hearings earlier than 21 days after the meetings of creditors. No objections to the earlier hearing have been filed; therefore, the following plans are either confirmed or placed on the Trustee's Pending List:

**INITIAL CONFIRMATION CALENDAR FOR CASES
WITH NO OUTSTANDING OBJECTIONS**

JUDGE JOHNSON – January 15, 2015 at 10:00 a.m.

The following cases shall be **CONFIRMED**:

32. DAVID & VIVIAN STRONG
14-5-4558 SLJ

ATTY – SAGARIA

33. LYNDSLEY MACK
14-5-4566 SLJ

ATTY – GOLD & HAMMES

34. MIGUEL LAMAS
14-5-4600 SLJ

ATTY – BOONE

**INITIAL CONFIRMATION CALENDAR FOR POST BANKRUPTCY REFORM ACT CASES
WITH OUTSTANDING OBJECTIONS**

JUDGE JOHNSON – January 15, 2015 at 10:00 a.m.

From: 341 MEETING OF CREDITORS, December 29, 2014

TO BE PLACED ON TRUSTEE'S PENDING LIST:

35. KRISTEN HAMMOND
14-5-4562 SLJ

PRO SE
OBJECTION BY - TRUSTEE

36. ALEX WANG
14-5-4570 SLJ

ATTY – MARTIN
OBJECTION BY – TRUSTEE

37. RICHARD PIERCE
14-5-4584 SLJ

ATTY – GOLD & HAMMES
OBJECTION BY – TRUSTEE &
PREMIERONE CREDIT UNION

38. MARK & DEBRA GARRIGA
14-5-4601 SLJ

ATTY – BOONE
OBJECTION BY – TRUSTEE & BANK OF
NEW YORK MELLON

39. WILLIAM MICHAEL
14-5-4605 SLJ

ATTY – ERICKSEN
OBJECTION BY – TRUSTEE & TISHA
EFTHYMIU