

UNITED STATES BANKRUPTCY COURT
DEPARTMENT 4
JUDGE PETER W. BOWIE, PRESIDING

WEDNESDAY, JANUARY 7, 2015

- R E V I S E D -

02:00 PM

1 - 09-11795-PB Ch 13 COLLEEN C DURNIN

TRUSTEE'S MOTION TO DISMISS CASE

ATTORNEY: THOMAS K. SHANNER (COLLEEN C DURNIN)

2 - 09-12095-PB Ch 13 BRADLEY PAUL FERNBAUGH & LEA DISNEY

TRUSTEE'S MOTION TO DISMISS CASE

ATTORNEY: GREGORY HIGHNOTE (BRADLEY PAUL FERNBAUGH, LEA DISNEY)

3 - 10-13703-PB Ch 13 ANNA LEE ELLROTT

DEBTOR'S MOTION TO MODIFY PLAN

ATTORNEY: ANIKA RENAUD-KIM (ANNA LEE ELLROTT)

4 - 11-12323-PB Ch 13 GARY L. & BEVERLY A. BENSCHOTER

DEBTOR'S MOTION TO MODIFY PLAN (fr. 11/12/14)

ATTORNEY: JONATHAN N. VAKNIN (BEVERLY A. BENSCHOTER, GARY L. BENSCHOTER)

5 - 12-04987-PB Ch 13 ALEXANDER & JULIE ANNE GRUCA

DEBTOR'S MOTION TO MODIFY PLAN (fr. 11/12/14)

ATTORNEY: JONATHAN N. VAKNIN (ALEXANDER GRUCA, JULIE ANNE GRUCA)

03:30 PM

1 - 14-07621-MM Ch 13 MIKE WILSON

DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS
UNSECURED AND AVOID JUNIOR LIEN OF BANK OF NEW YORK MELLON
SERVICED BY SPECIALIZED LOAN SERVICING LLC

ATTORNEY: DANIEL J. WINFREE (MIKE WILSON)
ATTORNEY: MARK D. ESTLE (BANK OF NEW YORK MELLON)

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2 - 14-04541-CL Ch 13 JOSHUA FAASUA

- 1) DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN OF NORTH ISLAND CREDIT UNION
- 2) DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN OF BRISBANE HOMEOWNERS ASSOCIATION

ATTORNEY: JULIAN MCMILLAN (JOSHUA FAASUA)

ATTORNEY: EDWARD JUN FETZER (NORTH ISLAND CREDIT UNION)

3 - 13-10935-LT Ch 13 LURA LUCILLE BRASHEAR

DEBTOR'S AMENDED MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED & AVOID JUNIOR LIEN OF THE BANK OF NEW YORK MELLON, FKA THE BANK OF NEW YORK AS SUCCESSOR TRUSTEE TO JPMORGAN CHASE BANK, N.A., AS TRUSTEE FOR THE BENEFIT OF THE CERTIFICATEHOLDERS OF THE CWHEQ INC.; CWHEQ REVOLVING HOME EQUITY LOAN TRUST, SERIES 2005-1 (fr. 11/12/14)

Tentative Ruling: Motion to Strip Junior Lien **GRANTED**. Per unopposed appraisal, house is valued at \$310,000; pursuant to Sec. 506(a) Court finds junior lienholder's lien wholly unsecured by residence's value. Pursuant to Sec. 1322(b), the claim may be treated as unsecured for purposes of this case and the lien may be stripped off following plan confirmation, completion of the plan, and resulting discharge.

As this motion is unopposed, counsel is excused from attending this hearing and may submit an order forthwith. Further, counsel is authorized to add the guideline fee for motions of this type to any request for fees in connection with plan confirmation.

ATTORNEY: WENDY P. CAMPBELL (LURA LUCILLE BRASHEAR)

4 - 14-04657-CL Ch 13 SERGIO & MARIA ESCAMILLA

DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN OF THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS SUCCESSOR INDENTURE T'EE TO JPMORGAN CHASE BANK, N.A., AS INDENTURE T'EE FOR THE CWHEQ REVOLV. HOME EQUITY LOAN TRUST

Tentative Ruling: Service defect. **Matter continued to March 4, 2015 at 3:30 p.m., Dept. #4** The lender appears to be an FDIC-insured institution which triggers the additional service requirement in FRBP 7004(h) of certified mail service to the attention of a corporate officer. Counsel must re-serve all originally served parties with Notice of Continued Hearing, plus serve underlying pleadings together with Notice of Continued Hearing as required by 7004(h).

Counsel is excused from attending this hearing.

ATTORNEY: BRUNO FLORES (MARIA ESCAMILLA, SERGIO ESCAMILLA)

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5 - 14-05383-LA Ch 13 MARGARITO ARCE

DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN OF PNC BANK, N.A.

Tentative Ruling: **Matter continued to February 4, 2015 at 3:30 p.m., Dept. #4** The affected lien and affected lienholder identified in the Motion are unsubstantiated by documentation filed in support of the Motion, such as Deed of Trust or title report to identify the affected lien, and the promissory note or a statement from the servicing agent which indicates the creditor named is the affected lienholder. Movant is instructed to file and serve a supplemental statement which provides such documentation by January 31, 2015.

Counsel is excused from attending this hearing.

ATTORNEY: BRUNO FLORES (MARGARITO ARCE)

6 - 14-05481-CL Ch 13 BENJAMIN C. & AMY C. WILLIAMS

DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN OF JP MORGAN CHASE BANK N.A.

Tentative Ruling: **Matter continued to March 4, 2015 at 3:30 p.m., Dept. #4** Movant has alleged that the affected lien identified with County Recorder Instrument Number 2007-0188876, recorded on March 20, 2007, is junior to the lien associated with the lien identified as senior, which was recorded on Sept. 18, 2012, as Instrument Number 2012-0563468 (Claim #1). Movant is instructed to file and serve a supplemental statement which provides evidence of subordination of the affected lien to the lien identified as senior, and a Notice of Continued Hearing.

Counsel is excused from attending this hearing.

ATTORNEY: JULIAN MCMILLAN (AMY C. WILLIAMS, BENJAMIN C. WILLIAMS)

7 - 14-06903-MM Ch 13 MARIA LUISA MOLANO

DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN OF REAL TIME RESOLUTIONS, INC. AS AGENT FOR THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATE HOLDERS OF CWHE REVOLVING HOME EQUITY LOAN TRUST, SERIES 2007-A

Tentative Ruling: Service defect. **Matter continued to March 4, 2015 at 3:30 p.m., Dept. #4** Movant has failed to serve creditor at address designated for receipt of notices shown in proof of claim. Movant must serve underlying pleadings and notice of continued hearing on address shown in POC. Further, movant must re-serve all parties originally served with notice of continued hearing in the manner they were entitled to be served (either 7004(b)(3) service or 7004(h) service, as appropriate).

Counsel is excused from attending this hearing.

ATTORNEY: DAVID L. SPECKMAN (MARIA LUISA MOLANO)

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8 - 14-08079-CL Ch 13 RONALD A & FAWN HEMPHILL

DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN OF GREEN TREE SERVICING, LLC

Tentative Ruling: **Matter continued to March 4, 2015 at 3:30 p.m., Dept. #4** The affected lien and affected lienholder identified in the Motion are unsubstantiated by documentation filed in support of the Motion, such as Deed of Trust or title report to identify the affected lien, and the promissory note or a statement from the servicing agent which indicates the creditor named is the affected lienholder. The Motion reflects affected lien identified with County Recorder Instrument Number 2007-050652; while exhibit of Deed of Trust is identified with County Recorder Instrument Number 2007-0506252. Movant is instructed to file and serve a supplemental statement which provides such documentation or an Amended Motion which provides for the correct county recorder number along with a Notice of Continued Hearing by January 21, 2015.

Counsel is excused from attending this hearing.

ATTORNEY: HAROLD D. THOMPSON (FAWN HEMPHILL, RONALD A HEMPHILL)

9 - 14-08101-LT Ch 13 RONALD S & MICHELLE M COTTRELL

DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN OF OCWEN LOAN SERVICING, LLC

Tentative Ruling: **Matter continued to February 4, 2015 at 3:30 p.m., Dept. #4** The affected lien and affected lienholder identified in the Motion are unsubstantiated by documentation filed in support of the Motion, such as Deed of Trust identified with County Recorder Instrument Number 2006-0179828. Movant is instructed to file and serve a supplemental statement which provides such documentation by January 28, 2015.

Counsel is excused from attending this hearing.

ATTORNEY: SCOTT R. BURTON (MICHELLE M COTTRELL, RONALD S COTTRELL)

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10 - 14-08105-LT Ch 13 JOSE LUIS & BEATRIZ GARCIA MENDOZA

DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN OF NATIONSTAR MORTGAGE

Tentative Ruling: Matter continued to March 4, 2015 at 3:30 p.m., Dept. #4

1) It appears a Proof of Claim has been filed (claim #1 filed on 12/12/14) in connection with the affected lien and the affected lien names a different creditor (Deutsche Bank National Trust Company, as Trustee for Merrill Lynch Mortgage Investors Trust, Mortgage Loan Asset-Backed Certificates, Series 2005-NCB) as the real party in interest than the creditor named in the Motion (Nationstar Mortgage). The affected lien and affected lienholder identified in the Motion are unsubstantiated by documentation filed in support of the Motion, such as Deed of Trust identified with County Recorder Instrument Number 2005-1046217. It appears the County Recorder Instrument Number identified in the motion and that identified in the proof of claim are inconsistent. Proof of Claim #1 has identified County Recorder Instrument Number 2005-0338894. Movant is instructed to file and properly serve a Notice of Continued Hearing and an Amended Motion which names the correct real party in interest for the affected lienholder, along with the underlying pleadings by January 21, 2015.

2) Service defect. Movant has failed to serve creditor at address designated for receipt of notices shown in proof of claim. Movant must serve underlying pleadings and notice of continued hearing on address shown in POC. Further, movant must re-serve all parties originally served with notice of continued hearing in the manner they were entitled to be served (either 7004(b)(3) service or 7004(h) service, as appropriate).

Counsel is excused from attending this hearing.

ATTORNEY: SCOTT R. BURTON (BEATRIZ GARCIA MENDOZA, JOSE LUIS MENDOZA)

11 - 14-08129-MM Ch 13 VIRGINIA G. RIVAS

DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN OF U.S. BANK, N.A. AS AN INDENTURE TRUSTEE, ON BEHALF OF HOLDERS OF THE TERWIN MORTGAGE TRUST 2007-9SL, ASSET-BACKED SECURITIES, SERIES 2007-9SL

Tentative Ruling: Motion to Strip Junior Lien **GRANTED**. Per unopposed appraisal, house is valued at \$300,000; pursuant to Sec. 506(a) Court finds junior lienholder's lien wholly unsecured by residence's value. Pursuant to Sec. 1322(b), the claim may be treated as unsecured for purposes of this case and the lien may be stripped off following plan confirmation, completion of the plan, and resulting discharge.

As this motion is unopposed, counsel is excused from attending this hearing and may submit an order forthwith. Further, counsel is authorized to add the guideline fee for motions of this type to any request for fees in connection with plan confirmation.

ATTORNEY: DAVID L. SPECKMAN (VIRGINIA G. RIVAS)