

UNITED STATES BANKRUPTCY COURT
DEPARTMENT 3
JUDGE LAURA S. TAYLOR, PRESIDING
TUESDAY, FEBRUARY 14, 2012

10:00 AM

1 - 09-14888-LT Ch 13 DAMON MICHAEL & RACHEL MICHELLE NEWMAN

1) MOTION FOR APPROVAL OF MODIFIED PLAN FILED ON BEHALF OF DAMON AND RACHEL NEWMAN

Tentative Ruling: Hear. In order to approve a plan modification, the Court must find that the plan, as modified, meets the requirements of section 1325(a). See section 1329(b)(1). As most relevant here is the requirement that the modified plan comply with the good faith requirement of section 1325(a) (3). Here, the only evidence currently before the Court is that Ms. Newman's reduction in income is voluntary and intended to enhance her long term career and to allow increased time with her teenage and pre-teen children. There is no evidence that either life adversity or circumstances beyond her control underlies this decision. There is no evidence that the career enhancement will benefit creditors. In short, there is no evidence of good faith. Ms. Newman is entitled to make this career choice, but she may no longer be entitled to a bankruptcy discharge as a result of the choice. Debtors should be prepared to provide case law authority supporting the confirmability of a modified plan where a debtor elects to reduce income with the result being a dramatic reduction in creditor payments. The Debtors must also be prepared to address the substantial time period where Debtors paid nothing. The Court understands from the evidence that the Debtors needed to repay an over-payment, but the Court also understands that they received an overpayment and may have used none of it to satisfy plan obligations. Finally, Debtors should be prepared to address budget issues.

2) MOTION TO DISMISS CASE FILED BY TRUSTEE

Tentative Ruling: Hear. Dismissal appropriate under section 1307(c)(1) unless, at a minimum, Debtors are current on post Motion to Dismiss modified plan payments. Court will otherwise address Motion after consideration of the plan modification request.

ATTORNEY: GERALD L. BOHART (DAMON MICHAEL NEWMAN, RACHEL MICHELLE NEWMAN)

10:00 AM

2 - 09-16480-LT Ch 13 MIKE R. & TAMARA L ESTEVEZ

MOTION FOR APPROVAL OF MODIFIED PLAN FILED BY TRUSTEE

Tentative Ruling: Grant. Unopposed and well supported by facts and relevant law. Appearances excused, and the Trustee may submit his order.

ATTORNEY: DON E. BOKOVOY (MIKE R. ESTEVEZ, TAMARA L ESTEVEZ)

3 - 10-00016-LT Ch 13 MARIA DEL ROCIO CASTRO-RAMOS

MOTION TO DISMISS CASE FILED BY TRUSTEE

Tentative Ruling: Hear. This case is a good example of why allowing an attorney to be paid in full prior to confirmation of a plan is a bad idea. Debtor's counsel had little incentive to watch the case having fully recovered his \$2,000 fee prior to case initiation. See Dkt. #1 (Disclosure of Compensation of Attorney for Debtor). True, he may not (and should not) have yet recovered fees on account of the lien strip, but that is only a minor recovery in comparison to the upfront fee. Counsel may now have remedied all problems as a result of chapter 13 Trustee action and oversight. If so, and if Debtor is current, the Court will not punish her for the attorneys' inaction. The Court, however, will likely require disgorgement of some or all of the fees received to date and a modification to the plan that allows such fees to be repaid hereafter either at case end and/or pro rata with creditor's claims. In light of the delays here, the fee paid - albeit below the presumptively reasonable amount - exceeds the reasonable value of the services. Attorney inaction placed the client at risk of dismissal. Such fees are subject to disgorgement. See section 329(b). Allowing the same fee to be paid overtime or in the future likely results in an equitable award.

ATTORNEY: KENNETH M. COOKE (MARIA DEL ROCIO CASTRO-RAMOS)

10:00 AM

4 - 10-04944-LT Ch 13 JUAN CARLOS & CARMEN VELAZQUES

MOTION TO DISMISS CASE FILED BY TRUSTEE

Tentative Ruling: Hear. Court cannot ascertain status from documents filed to date. The Debtors are obviously struggling as evidenced by their declaration (Dkt. #36) and the concurrently pending stay relief motion (Dkt. #33). They must propose a solution, commit to payments, and make them, or dismissal is appropriate.

ATTORNEY: JOHN C. COLWELL (CARMEN VELAZQUES, JUAN CARLOS VELAZQUES)
ATTORNEY: DANIEL WIEDECKER (CARMEN VELAZQUES, JUAN CARLOS VELAZQUES)

5 - 10-07896-LT Ch 13 RAYMUNDO M. & BERNICE C. URIBE

1) MOTION TO DISMISS CASE FILED BY TRUSTEE (fr 12/6/11)

Tentative Ruling: Hear. Dismissal appears appropriate under section 1307(c)(1) and (5) and this Court's inherent authority to enforce compliance with its orders. Debtors failed to comply with this Court's scheduling order (see Dkt. #78). As a result the modified plan cannot be confirmed. If Debtors are not substantially current under the original plan, dismissal appears appropriate.

2) MOTION FOR APPROVAL OF MODIFIED PLAN FILED ON BEHALF OF BERNICE AND RAYMUNDO URIBE (fr 12/6/11)

Tentative Ruling: Deny, based on failure to comply with briefing requirements and Court's previously expressed conclusion that plan payment amount is too low. See Dkt. #76.

ATTORNEY: JOHN GOODRICH (BERNICE C. URIBE, RAYMUNDO M. URIBE)

6 - 10-18928-LT Ch 13 BRIAN KEITH & KIM ALICIA EVERWEIN

MOTION TO MODIFY PLAN AND ALLOW ADDITIONAL ATTORNEY FEES FILED ON BEHALF OF BRIAN AND KIMBERLY EVERWEIN

Tentative Ruling: Hear. Court cannot ascertain status from documents filed to date. The Debtors' evidence supports an amendment, and they attempted to address Trustee objections as to length and due diligence documents and filed a new plan. The Court is not sure what issues remain outstanding, if any.

ATTORNEY: ANDY C. WARSHAW (BRIAN KEITH EVERWEIN, KIM ALICIA EVERWEIN)

10:00 AM

7 - 11-02016-LT Ch 13 ALBERTO A. & ANA M. DE LA TORRE

MOTION FOR APPROVAL OF MODIFIED PLAN FILED ON BEHALF OF ALBERTO AND ANA DE LA TORRE

Tentative Ruling: Grant. All issues identified by the Trustee appear resolved by post-confirmation modification; and the Motion is well supported by facts and law.
Assuming that the Trustee does not advise Debtors' counsel to the contrary prior to the hearing, appearances are excused, and Movants may submit their order. Fees are awarded at the presumptive rate of \$600.00.

ATTORNEY: THOMAS K. SHANNER (ALBERTO A. DE LA TORRE, ANA M. DE LA TORRE)

8 - 11-06306-LT Ch 13 JOE L. & LAURA PEREZ

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

Tentative Ruling: Hear. Trustee reports that all objections remain, but Debtors provide for a 100% plan with interest and argue that the negative cash flow on the retained property may be \$30 not \$2,200. The retained property issue does not appear be significant if the Debtors' assertions are accurate. The Court, similarly, notes that the rental income appears to almost entirely offset rental property expenses - it is not available for plan payments as Trustee suggests in objection 1-3. But, section 1325(a)(9) is a problem. The Debtors must advise as to the status of the 2010 return.

ATTORNEY: JANET GUTIERREZ (JOE L. PEREZ, LAURA PEREZ)

9 - 11-06306-LT Ch 13 JOE L. & LAURA PEREZ

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY DAVID L. SKELTON ON BEHALF OF DAVID L. SKELTON

VACATED: DUP

ATTORNEY: JANET GUTIERREZ (JOE L. PEREZ, LAURA PEREZ)

10:00 AM

10 - 11-06408-LT Ch 13 EVA DIAZ

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

ATTORNEY: MAXWELL C. AGHA (EVA DIAZ)

11 - 11-08138-LT Ch 13 TESS ELIZABETH ST CLAIRE

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

Tentative Ruling: Sustain Objection. Trustee's objection is unopposed. See LBR 3015-5(c). Case is subject to dismissal under sections 1307(c)(1) in the absence of compelling argument at hearing that suggests a justification for payment defaults and inaction in regard to plan objection.

ATTORNEY: SANDRA DAVID BRENNAN (TESS ELIZABETH ST CLAIRE)

12 - 11-08682-LT Ch 13 DANIEL G & MONICA J LONGWELL

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

Tentative Ruling: Sustain Objection. Trustee's objection is unopposed. See LBR 3015-5(c). Case is subject to dismissal under sections 1307(c)(1) in the absence of compelling argument at hearing that suggests a justification for payment defaults and inaction in regard to plan objection.

ATTORNEY: BRIAN CROZIER WHITAKER (DANIEL G LONGWELL, MONICA J LONGWELL)

13 - 11-10478-LT Ch 13 EVA ALVARADO

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

Tentative Ruling: Hear. Debtor's recent evidence of outside financial support helps to address section 1325(a)(6) concerns, but the Court will not confirm until, at a minimum, the Debtor is current. The PCM suggested in Dkt. #46 may address the length issue.

ATTORNEY: THOMAS F. MILES (EVA ALVARADO)

10:00 AM

14 - 11-10948-LT

Ch 13 WILHEM D. & SHAWNELE K. MORELOS

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN. (RELATED DOCUMENT [2] CHAPTER 13 PLAN) FILED BY DAVID L. SKELTON ON BEHALF OF TRUSTEE

VACATED: dup

ATTORNEY: LARISSA L. LAZARUS (SHAWNELE K. MORELOS, WILHEM D. MORELOS)

15 - 11-10948-LT

Ch 13 WILHEM D. & SHAWNELE K. MORELOS

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

VACATED: off cal per notice filed 2/3/12 via docket 47

ATTORNEY: LARISSA L. LAZARUS (SHAWNELE K. MORELOS, WILHEM D. MORELOS)

16 - 11-11134-LT

Ch 13 VALERIE SUE POUNDS

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN. (RELATED DOCUMENT [2] CHAPTER 13 PLAN) FILED BY DAVID L. SKELTON ON BEHALF OF TRUSTEE

VACATED: dup

ATTORNEY: ROGER STACY (VALERIE SUE POUNDS)
ATTORNEY: GEORGE PANAGIOTOU (VALERIE SUE POUNDS)

17 - 11-11134-LT

Ch 13 VALERIE SUE POUNDS

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

Tentative Ruling: Sustain Objection based on lack of opposition to newest objections. See LBR 3015-5(c). Given extent of response to prior objections, dismissal under section 1307(c)(1) is not probable, and Court likely will give Debtor a chance to file another plan.

ATTORNEY: ROGER STACY (VALERIE SUE POUNDS)
ATTORNEY: GEORGE PANAGIOTOU (VALERIE SUE POUNDS)

10:00 AM

18 - 11-11366-LT

Ch 13 LAURA CAMPUZANO

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

ATTORNEY: SCOTT R. BURTON (LAURA CAMPUZANO)

19 - 11-11888-LT

Ch 13 JAMES W. HURTADO

DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN OF BANK OF AMERICA, NATIONAL ASSOCIATION AS SUCCESSOR BY MERGER TO LASALLE BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CERTIFICATEHOLDERS OF BEAR STEARNS MORTGAGE FUNDING TRUST 2006-SL3, MORTGAGE-BACKED CERTIFICATES, SERIES 2006-SL3

Tentative Ruling: Motion GRANTED subject to requirement that Debtor amend paragraph 19 of the plan to correctly identify the lienholder consistent with the Motion, and provide appropriate notice of the amended plan.

Based on Debtor's uncontroverted evidence, the Court: (1) values the real property at issue ("Property") at \$325,000; (2) pursuant to section 506(a), determines that the lien at issue ("Lien") is wholly unsecured for all purposes of this case; and (3) pursuant to section 1322(b), determines that Debtor's plan may provide that the Lien will be stripped from the Property following plan confirmation, plan completion, and discharge.

As the Motion is unopposed after appropriate notice, counsel is excused from hearing attendance and may submit an order forthwith. The Court allows fees in the presumptively reasonable amount of \$450 plus associated costs subject to proof.

ATTORNEY: MARJAN MORTAZAVI (JAMES W. HURTADO)

20 - 11-11992-LT

Ch 13 RODOLFO ARROYO LARA

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

ATTORNEY: EUGENIO RAMOS (RODOLFO ARROYO LARA)

10:00 AM

21 - 11-12366-LT Ch 13 LIDIA ROBLES ROSAS

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE (fr 12/6/11)

Tentative Ruling: Sustain most recent Objection. Trustee's objection is unopposed. See LBR 3015-5(c). Debtor also failed to comply with this Court's scheduling order of December 9, 2011 (Dkt. #33). Case is subject to dismissal under sections 1307(c)(1) and this Court's inherent authority to enforce compliance with its own orders in the absence of compelling argument at hearing that suggests a justification for inaction in regard to plan objection and failure to comply with Court order.

ATTORNEY: FRANCISCO J. ALDANA (LIDIA ROBLES ROSAS)

22 - 11-12366-LT Ch 13 LIDIA ROBLES ROSAS

MINUTE ORDER. HEARING DATE: 12/06/2011, MATTER: OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE. DISPOSITION: SEE ATTACHED PDF DOCUMENT FOR DETAILS. (VCAL HEARING ID (207378)).

VACATED: dup

ATTORNEY: FRANCISCO J. ALDANA (LIDIA ROBLES ROSAS)

23 - 11-12366-LT Ch 13 LIDIA ROBLES ROSAS

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN. (RELATED DOCUMENT [27] CHAPTER 13 PLAN) FILED BY DAVID L. SKELTON ON BEHALF OF TRUSTEE

VACATED: dup

ATTORNEY: FRANCISCO J. ALDANA (LIDIA ROBLES ROSAS)

10:00 AM

24 - 11-12550-LT Ch 13 DAVID JASON & MELISSA LEE MAXWELL

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

Tentative Ruling: Motion GRANTED subject to requirement that Debtors amend paragraph 20 of the plan to correctly identify the lienholder consistent with the Motion, and provide appropriate notice of the amended plan.

Based on Debtors' uncontroverted evidence, the Court: (1) values the real property at issue ("Property") at \$363,000; (2) pursuant to section 506(a), determines that the lien at issue ("Lien") is wholly unsecured for all purposes of this case; and (3) pursuant to section 1322(b), determines that Debtors' plan may provide that the Lien will be stripped from the Property following plan confirmation, plan completion, and discharge.

As the Motion is unopposed after appropriate notice, counsel is excused from hearing attendance and may submit an order forthwith. The Court allows fees in the presumptively reasonable amount of \$450 plus associated costs subject to proof.

ATTORNEY: DAVID E. BRITTON (DAVID JASON MAXWELL, MELISSA LEE MAXWELL)

25 - 11-16990-LT Ch 13 MARGARITO & LETICIA PEREZ

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN FILED ON BEHALF OF AMERICAN HONDA FINANCE CORP.

Tentative Ruling: Sustain objection. Creditor's objection is unopposed. [See LBR 3015(c)]. The Court likely will require Debtors to file a new plan that provides for interest on Creditor's claim or to otherwise affirm their intention to pay such interest promptly and will allow for dismissal under section 1307(c) (1) or (3) if such action is not taken promptly.

ATTORNEY: GEORGE PANAGIOTOU (LETICIA PEREZ, MARGARITO PEREZ)

26 - 11-17426-LT Ch 13 JANICE I. WHITWER-LANE

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN FILED ON BEHALF OF U.S. BANK, NATIONAL ASSOCIATION

Tentative Ruling: Sustain objection. Creditor's objection is unopposed. [See LBR 3015(c)]. The Court likely will require Debtor to file a new plan that provides Creditor with interest at the appropriate interest rate under *Till* and Creditor's documents promptly and will allow for dismissal under section 1307(c)(1) and (3) if such a plan is not filed.

ATTORNEY: SCOTT R. BURTON (JANICE I. WHITWER-LANE)

10:00 AM

27 - 11-17600-LT

Ch 13 BRIAN EDWARD DINGES

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

VACATED: off cal per notice filed 2/6 via docket 27

ATTORNEY: RAYMOND M. SCHIMMEL (BRIAN EDWARD DINGES)

28 - 11-17672-LT

Ch 13 CELSO DRAPIEZA & AMELIA VALDEZ LOMBOY

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

VACATED: off cal per notice filed 2/6 via doc 24

ATTORNEY: D.J. RAUSA (AMELIA VALDEZ LOMBOY, CELSO DRAPIEZA LOMBOY)

29 - 11-17712-LT

Ch 13 EDWIN & IRIS SANTIAGO

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

Tentative Ruling: Sustain Objection. Trustee's objection is unopposed. [See LBR 3015-5(c)]. Case may be subject to dismissal under section 1307(c)(1) in the absence of compelling argument at hearing that suggests a justification for inaction in regard to plan objection. At a minimum, Court likely will require prompt plan amendments consistent with the objection.

ATTORNEY: JEFFREY D. SCHREIBER (EDWIN SANTIAGO, IRIS SANTIAGO)

30 - 11-17752-LT

Ch 13 PHILLIP PONTO

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND CERTIFICATE OF SERVICE. FILED BY BRIAN H. TRAN OF MILES, BAUER, BERGSTROM & WINTERS, LLP ON BEHALF OF BANK OF AMERICA, N.A. (RELATED DOCUMENTS 14 CHAPTER 13 PLAN)

VACATED: resolved by stip filed 1/13/12

ATTORNEY: JULIAN MCMILLAN (PHILLIP PONTO)

10:00 AM

31 - 11-17752-LT Ch 13 PHILLIP PONTO

obj. conf. b of a

VACATED: RESOLVED BY STIP

ATTORNEY: Julian McMillan (Phillip Ponto)
ATTORNEY: Brielyn Atwater (Saxon Mortgage Services, Inc., its assign)
ATTORNEY: L. Bryant Jaquez (Bank Of America, N.A....)
ATTORNEY: Katherine Walker (Green Tree Servicing, LLC)
ATTORNEY: Brian H. Tran (Bank Of America, N.A....)

32 - 11-17752-LT Ch 13 PHILLIP PONTO

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND CERTIFICATE OF SERVICE. FILED BY L. BRYANT JAQUEZ OF MILES, BAUER, BERGSTROM & WINTERS, LLP ON BEHALF OF BANK OF AMERICA, N.A. (RELATED DOCUMENTS 14 CHAPTER 13 PLAN)

VACATED: resolved by stip filed 1/19/12

ATTORNEY: JULIAN MCMILLAN (PHILLIP PONTO)

33 - 11-17752-LT Ch 13 PHILLIP PONTO

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN FILED ON BEHALF OF SAXON MORTGAGE SERVICES, INC.

Tentative Ruling: Continue. Creditor came close, but did not give 28 days notice of hearing as required by LBR 3015-5(a).

ATTORNEY: JULIAN MCMILLAN (PHILLIP PONTO)

34 - 11-18136-LT Ch 13 MANUEL I. ABLOLA

- 1) OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN FILED ON BEHALF OF WELLS FARGO BANK, NATIONAL ASSOCIATION
- 2) OBJECTIONS TO DEBTOR'S CLAIM OF EXEMPTIONS FILED BY TRUSTEE

11:00 AM

1 - 11-18413-LT Ch 13 ALBERTO ACOSTA

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND CERTIFICATE OF SERVICE. FILED BY BRIELYN ATWATER OF MCCARTHY & HOLTHUS, LLP ON BEHALF OF BANK OF AMERICA, N.A., SUCCESSOR BY MERGER TO BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING LP. (RELATED DOCUMENTS 3 CHAPTER 13 PLAN)

VACATED: dup

ATTORNEY: RHONDA K. WALKER (ALBERTO ACOSTA)

02:00 PM

1 - 09-17065-LT Ch 13 RUBY BRACAMONTE

MOTION TO DISMISS CASE FILED BY TRUSTEE

Tentative Ruling: Hear. The Trustee filed his motion on October 31, 2011. On December 5, 2011, Debtor opposed this motion by declaration stating her hope of being able to afford the payments based on restored work hours. But the Trustee's February 9, 2012 statement indicates that the last payment was January 4, 2012, and since the date of the motion Debtor made only two payments - while four came due. Thus, the Debtor continues to be payment delinquent and the delinquency is increasing. In addition Trustee now states the plan length is anticipated to exceed 60 months. Dismissal, thus, appears appropriate under 11 U.S.C. § 1307(c)(6). Appearance of Debtor's counsel at the February 14, 2012 hearing is not required if Debtor submits to this Tentative and agrees to entry of an order consistent therewith.

ATTORNEY: JOHN C. COLWELL (RUBY BRACAMONTE)

2 - 10-06125-LT Ch 13 WILLIAM STERLING & DIANA DEPERIO PENICK

AND MOTION WITH CERTIFICATE OF SERVICE FILED BY JOHN F. BRADY ON BEHALF OF DIANA DEPERIO PENICK, WILLIAM STERLING PENICK.

VACATED: dup

ATTORNEY: JOHN F. BRADY (DIANA DEPERIO PENICK, WILLIAM STERLING PENICK)

02:00 PM

3 - 10-13759-LT Ch 13 RAUL E & MARIA C GARFIAS

MOTION FOR RELIEF FROM STAY, RS # PD-1 FILED ON BEHALF OF WELLS FARGO BANK, N.A.

Tentative Ruling: Hear. Debtors' failure to make post-petition/post-confirmation payments in a chapter 13 case constitutes cause for stay relief under section 362(d) (1). *Ellis v. Parr (In re Ellis)*, 60 B.R. 432, 435 (9th Cir. BAP 1985). Notwithstanding, the Court has discretion as to the form of relief and may condition relief from stay on prompt cure as opposed to terminating the stay immediately. The Court will hear argument as to the appropriate remedy if the parties do not reach an agreement prior to hearing. The Court will likely require significant debtor effort given the magnitude of the post-petition default. The pendency of a loan modification does not change the requirement of stay relief under these facts.

ATTORNEY: ANDREW H. GRIFFIN (MARIA C GARFIAS, RAUL E GARFIAS)

4 - 10-18923-LT Ch 13 SANDRA ALLAN STEWART

MOTION FOR RELIEF FROM STAY, RS # MDE-1 FILED ON BEHALF OF VW CREDIT, INC.

Tentative Ruling: Hear. Debtor's failure to make post-petition/post-confirmation payments in a chapter 13 case constitutes cause for stay relief under section 362(d) (1). *Ellis v. Parr (In re Ellis)*, 60 B.R. 432, 435 (9th Cir. BAP 1985). Notwithstanding, the Court has discretion as to the form of relief and may condition relief from stay on prompt cure as opposed to terminating the stay immediately. The Court will hear argument as to the appropriate remedy if the parties do not reach an agreement prior to hearing.

ATTORNEY: CRAIG S. TRENTON (SANDRA ALLAN STEWART)

5 - 10-18941-LT Ch 13 WILMA A. NIEVES

MOTION TO DISMISS CASE FILED BY TRUSTEE

Tentative Ruling: Hear. On December 8, 2011, Debtor opposed this motion by declaration stating that the Debtor "can resume my regular payments and begin to catch up. . ." But the Trustee's February 9, 2012 statement indicates that the last payment was December 7, 2011 and, thus, that Debtor continues to be payment delinquent notwithstanding the assertion in the declaration. And such delinquency is increasing. Dismissal, thus, appears appropriate under 11 U.S.C. § 1307(c)(6).

ATTORNEY: MARJAN MORTAZAVI (WILMA A. NIEVES)

02:00 PM

6 - 10-22505-LT

Ch 13 BENA FERRER & ROGELIO DELA CRUZ BACTOL

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE (fr 12/6/11)

ATTORNEY: GARY SEHNERT (BENA FERRER, ROGELIO DELA CRUZ BACTOL)

7 - 11-06015-LT

Ch 13 NELSON APOLINAR ARIAS

1) MOTION FOR APPROVAL OF MODIFIED PLAN FILED ON BEHALF OF NELSON APOLINAR ARIAS (fr 1/31/12)

VACATED: dismissed 2/2/12

2) DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN OF JP MORGAN CHASE BANK N.A. SUCCESSOR IN INTEREST FROM THE FEDERAL DEPOSIT INSURANCE CORPORATION AS RECEIVER FOR WASHINGTON MUTUAL BANK (fr 1/31/12)

VACATED: dismissed 2/2/12

ATTORNEY: STEVEN J. DIAMOND (NELSON APOLINAR ARIAS)

8 - 11-06463-LT

Ch 13 ALEJANDRO & VIRGINIA CARRANZA

OBJECTION TO CONFIRMATION OF PLAN FILED ON BEHALF OF SERRAMAR OWNERS ASSOCIATION

Tentative Ruling: Sustain Objection. Debtors filed no response to the objection and are deemed to have consented to such an order. See LBR 3015-5(c). Debtors must remain current on post-petition obligations for HOA fees if they wish to retain the home. The Debtors must become current on all home related post-petition expenses promptly. Otherwise, the Court must conclude that the plan cannot be confirmed as it cannot meet the feasibility test of section 1325(a)(6). Here the docket reflects multiple stay relief motions, APOs, etc.

ATTORNEY: RUBEN F. ARIZMENDI (ALEJANDRO CARRANZA, VIRGINIA CARRANZA)

02:00 PM

9 - 11-06673-LT Ch 13 WILBERT GONZALEZ MARTINEZ & AIDA LUNARDONI MARTINEZ

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

Tentative Ruling: Hear. Debtors - finally - filed a lien strip motion and agreed to provide the 2010 return. Given the tax return delays, the chapter 13 Trustee must advise as to the confirmability of the plan given section 1325(a)(9). Assuming lien strip success on February 15, 2012 and a resolution of section 1325(a)(9) issues, confirmation may be appropriate. Otherwise, dismissal under section 1307(c)(1) may be required.

ATTORNEY: ROGER STACY (AIDA LUNARDONI MARTINEZ, WILBERT GONZALEZ MARTINEZ)

ATTORNEY: GEORGE PANAGIOTOU (AIDA LUNARDONI MARTINEZ, WILBERT GONZALEZ MARTINEZ)

10 - 11-09615-LT Ch 13 ACIL & DIANA FOWLER

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

Tentative Ruling: Hear. Debtors failed to file any opposition to the Trustee's objection. Unless the Trustee is satisfied with the progress of informal negotiations and provision of information, the Court will sustain the objection. See LBR 3015-5(c). The Court may also find that dismissal is appropriate.

ATTORNEY: CRAIG S. TRENTON (ACIL FOWLER, DIANA FOWLER)

11 - 11-10275-LT Ch 13 HAMID REZA GHADERI-NEJAT

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN. (RELATED DOCUMENT [2] CHAPTER 13 PLAN) FILED BY JENNY JUDITH HA ON BEHALF OF TRUSTEE

VACATED: withdrawn 2/1/12 via docket 28

ATTORNEY: DEREK J. LOBO (HAMID REZA GHADERI-NEJAT)

02:00 PM

12 - 11-11115-LT Ch 13 DONALD R & LORI BLUE ANDERSON

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE FILED BY TRUSTEE

Tentative Ruling: Hear. The Court thanks both parties for timely submission of required documents. The Court will ask for updated status at the hearing and will require a deadline for submission of a claim objection.

ATTORNEY: D.J. RAUSA (DONALD R ANDERSON, LORI BLUE ANDERSON)

13 - 11-11475-LT Ch 13 ESTEBAN NUNEZ

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

Tentative Ruling: Motion GRANTED. Based on Debtor's uncontroverted evidence, the Court: (1) values the real property at issue ("Property") at \$290,000; (2) pursuant to section 506(a), determines that the lien at issue ("Lien") is wholly unsecured for all purposes of this case; and (3) pursuant to section 1322(b), determines that Debtor's plan may provide that the Lien will be stripped from the Property following plan confirmation, plan completion, and discharge.

As the Motion is unopposed after appropriate notice, counsel is excused from hearing attendance and may submit an order forthwith. The Court allows fees in the presumptively reasonable amount of \$450 plus associated costs subject to proof.

ATTORNEY: EVELYN JOHNSON (ESTEBAN NUNEZ)

14 - 11-14907-LT Ch 13 CYNTHIA B ROBERTSON

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN FILED ON BEHALF OF FRESH START REAL ESTATE, LLC (fr 1/31/12)

ATTORNEY: THOMAS B. GORRILL (CYNTHIA B ROBERTSON)

02:00 PM

15 - 11-14951-LT

Ch 13 JOHNNIE L. & DELLA LOUISE ANDERSON

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN FILED ON BEHALF OF WELLS FARGO DEALER SERVICES, INC. (fr 1/3/12)

ATTORNEY: EVELYN JOHNSON (DELLA LOUISE ANDERSON, JOHNNIE L. ANDERSON)

16 - 11-15197-LT

Ch 13 LORI L BISHOP

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN FILED ON BEHALF OF WELLS FARGO FINANCIAL CALIFORNIA, INC.

VACATED: off calendar as withdrawn 2/7/12 via docket 32

ATTORNEY: D.J. RAUSA (LORI L BISHOP)

17 - 11-16351-LT

Ch 13 THERESA ZUCCONI

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

Tentative Ruling: Motion GRANTED. Based on Debtor's uncontroverted evidence, the Court: (1) values the real property at issue ("Property") at \$430,000; (2) pursuant to section 506(a), determines that the lien at issue ("Lien") is wholly unsecured for all purposes of this case; and (3) pursuant to section 1322(b), determines that Debtor's plan may provide that the Lien will be stripped from the Property following plan confirmation, plan completion, and discharge.

As the previously filed opposition to the Motion has been withdrawn (docket #28), counsel is excused from hearing attendance and may submit an order forthwith. The Court allows fees in the presumptively reasonable amount of \$450 plus associated costs subject to proof.

ATTORNEY: MICHAEL A. FELDMAN (THERESA ZUCCONI)

02:00 PM

18 - 11-17037-LT

Ch 13 LUIS JOSE TIRADO

DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN OF JPMORGAN CHASE BANK, N.A., SUCCESSOR IN INTEREST FROM THE FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER FOR WASHINGTON MUTUAL

ATTORNEY: CRAIG S. TRENTON (LUIS JOSE TIRADO)

19 - 11-17523-LT

Ch 13 EGRISelda VELASQUEZ

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND CERTIFICATE OF SERVICE. OF THE MODIFIED CHAPTER 13 PLAN FILED BY AUSTIN P. NAGEL OF LAW OFFICES OF AUSTIN P. NAGEL ON BEHALF OF NISSAN MOTOR ACCEPTANCE CORP. (RELATED DOCUMENTS 23 OBJECTION TO CONFIRMATION OF CHAPTER 13 OR 12 PLAN)

VACATED: dup

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND CERTIFICATE OF SERVICE. FILED BY AUSTIN P. NAGEL OF LAW OFFICES OF AUSTIN P. NAGEL ON BEHALF OF NISSAN MOTOR ACCEPTANCE CORP. (RELATED DOCUMENTS 16 CHAPTER 13 PLAN)

VACATED: dup

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN FILED ON BEHALF OF NISSAN MOTOR ACCEPTANCE CORP.

Tentative Ruling: Continue. Movant ignored LBR 3015-5(a); it requires 28 days notice of a hearing on a plan objection. Movant ignored LBR 3015-5(c); it allows 14 days for response. Movant utilized an out of date form of CSD 1173; it allowed only seven days for response. Movant must renote its objection and obtain a new hearing date.

ATTORNEY: GEORGE PANAGIOTOU (EGRISelda VELASQUEZ)
ATTORNEY: ROGER STACY (EGRISelda VELASQUEZ)

02:00 PM

20 - 11-18413-LT Ch 13 ALBERTO ACOSTA

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND CERTIFICATE OF SERVICE. FILED BY BRIELYN ATWATER OF MCCARTHY & HOLTHUS, LLP ON BEHALF OF BANK OF AMERICA, N.A., SUCCESSOR BY MERGER TO BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING LP. (RELATED DOCUMENTS 3 CHAPTER 13 PLAN)

VACATED: dup

ATTORNEY: RHONDA K. WALKER (ALBERTO ACOSTA)

21 - 11-18413-LT Ch 13 ALBERTO ACOSTA

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN FILED ON BEHALF OF BANK OF AMERICA, N.A.

Tentative Ruling: Continue. Creditor did not give 28 days notice of hearing as required by LBR 3015-5(a). But the Court notes that the paragraph 15 and section 1325(a)(5)(B)(iii)(l) problems are of concern.

ATTORNEY: RHONDA K. WALKER (ALBERTO ACOSTA)

22 - 11-18855-LT Ch 13 YOUNG MIN CHOI

1) OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN. (RELATED DOCUMENT [12] CHAPTER 13 PLAN) FILED BY JENNY JUDITH HA ON BEHALF OF TRUSTEE

VACATED: dismissed 1/9/12

2) OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND CERTIFICATE OF SERVICE. FILED BY JOSEPH GARIBYAN OF PROBER & RAPHAEL ON BEHALF OF JPMORGAN CHASE BANK, NATIONAL ASSOCIATION. (RELATED DOCUMENTS 12 CHAPTER 13 PLAN)

VACATED: dismissed 1/9/12

ATTORNEY: GENE W. CHOE (YOUNG MIN CHOI)

02:00 PM

23 - 11-20095-LT Ch 13 WILLIAM & JUDY PONTO

mtn. to convert to ch. 11

VACATED: not noticed, case disp 1/23/12

ATTORNEY: Julian McMillan (William Ponto, Judy Ponto)

24 - 12-00163-LT Ch 13 RONEN HERSHCU

MOTION TO VACATE DISMISSAL AND EXTEND AUTOMATIC STAY FILED BY
RONEN HERSHCU

03:15 PM

1 - 10-22505-LT Ch 13 BENA FERRER & ROGELIO DELA CRUZ BACTOL

MINUTE ORDER. HEARING DATE: 12/06/2011, MATTER: OBJECTION TO
CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS CASE
FILED BY TRUSTEE (FR 11/8/11). DISPOSITION: SEE ATTACHED PDF
DOCUMENT FOR DETAILS. (VCAL HEARING ID (216848)).

VACATED: cont to 2/14 at 2pm not 3:15

ATTORNEY: GARY SEHNERT (BENA FERRER, ROGELIO DELA CRUZ BACTOL)