

UNITED STATES BANKRUPTCY COURT
DEPARTMENT 1
CHIEF JUDGE MARGARET M. MANN, PRESIDING

THURSDAY, OCTOBER 21, 2021

*****COURT NOTE: ALL DEPARTMENT 1 LAW & MOTION CALENDARS WILL BE CONDUCTED IN PERSON UNLESS ZOOM APPEARANCE IS REQUESTED IN ADVANCE.**

*****COURT NOTE: ALL DEPARTMENT 1 REAFFIRMATION AGREEMENT CALENDARS WILL BE CONDUCTED VIA ZOOM VIDEO CONFERENCING.**

10:00 AM

1 - 17-05562-MM Ch 7 GREGORY STUART MUNGAS

ADV: 18-90127 ODYSSEY SPACE RESEARCH, LLC v. GREGORY STUART MUNGAS

STATUS CONFERENCE (fr. 9/23/21)

Tentative Ruling: Continued to November 18, 2021 at 10:00 a.m. in Dept. 1. Status reports due by no later than November 10, 2021. Appearances are excused for the October 21, 2021 hearing.

ATTORNEY: RICHARD A SIMMONS (ODYSSEY SPACE RESEARCH, LLC)

ATTORNEY: TIMOTHY J. TRUXAW (ODYSSEY SPACE RESEARCH, LLC)

ATTORNEY: JOHN M. GIVEN (GREGORY STUART MUNGAS)

ATTORNEY: KAREN SPICKER (GREGORY STUART MUNGAS)

2 - 21-02935-MM Ch 7 JORGE REYES

MOTION TO AVOID JUDICIAL LIEN OF CITIBANK, N.A. FILED BY DEBTOR

Tentative Ruling: The unopposed, properly served Motion to Avoid the Judicial Lien of Citibank, N.A. is GRANTED. Appearances are excused at the October 21, 2021 hearing.

ATTORNEY: FRANCISCO J. GARCIA (JORGE REYES)

10:00 AM

3 - 21-03768-MM Ch 13 ANTONIO G. SALAS

MOTION TO EXTEND AUTOMATIC STAY FILED BY DEBTOR

Tentative Ruling: Continued to **November 16, 2021 at 10:00 a.m. in Dept. 1**. The automatic stay is extended until the date of the continued hearing. Appearances at the October 21, 2021 hearing are excused.

The Court finds that a presumption of bad faith has arisen because Debtor previously a bankruptcy petition (Case No. 20-03939-MM13) that was pending within the preceding year that was dismissed after Debtor failed to perform the terms of a confirmed plan. See 11 U.S.C. § 362(c)(3)(C)(i)(II)(cc).

There is also a presumption of bad faith as to Planet Home Lending, LLC ("Planet") under 11 U.S.C. § 362(c)(3)(C)(ii) because Planet filed a motion for relief from stay under 11 U.S.C. § 362(d) in Debtor's prior bankruptcy that resulted in an order modifying the stay. Case No. 20-03939-MM13, Doc. 25.

Debtor's proposed Chapter 13 Plan indicates he is currently \$57,766.12 in arrears on his loan from Planet. Under his proposed chapter 13 plan, he proposes to pay \$995.97 a month to pay off these arrears and nothing to unsecured claims. Although Debtor retired since filing his last case, Debtor's current schedules indicate an increase in income from \$6,326.80 to \$8,435, due in part to Debtor's spouse receiving \$1,135 per month in Social Security. Debtor advises he is in the final stages of the hiring process for a new position with the San Diego Police Department making \$72,500. Debtor explains this income would be in addition to his retirement income he is currently receiving. Even though Debtor's total monthly expenses increased from \$5,066.06 to \$7,434.92, the impact on Debtor's overall budget may be negated by the additional income from Debtor's new position.

Given the increase in income and the Plan providing for an initial payment of \$1,000 with a step up in January 2026 to \$1,723, the Court is considering finding that Debtor has filed this case in good faith. However, the Court must insure that Planet has been given due process. The Court will therefore extend the automatic stay until the continued hearing to avoid irreparable injury and allow Debtor to properly serve Planet in accordance with Fed. R. Bankr. P. 7004(b)(3) to determine if it objects to the continuation of the automatic stay.

Debtor served Planet at:

Planet Home Lending
321 Research Pkwy., Ste. 303
Meriden, CT 06450

This notice does not comply with Bankruptcy Rule 7004(h) because a specific officer is not named, and it was not served by certified mail. Since the filing of the motion, Planet filed a proof of claim and request for special notice designating Aldridge Pite LLP to receive notice. Although Planet may be aware of this motion, proper notice is still required to ensure due process.

ATTORNEY: AHREN A. TILLER (ANTONIO G. SALAS)

10:00 AM

4 - 21-04010-MM Ch 7 ANA LILIA ZEPEDA

HEARING ON SUBMISSION OF APPLICATION TO HAVE THE CHAPTER 7 FILING FEE WAIVED FILED BY DEBTOR

Tentative Ruling: The court set this for hearing since it was not clear if Trustee would object to the waiver. There is a discrepancy between the income disclosure in the application and in the schedules attributable to contributions by Debtor's partner. The parties are to address these issues at the hearing, and the court may request briefing as well.

As stated in our Chambers Guidelines posted on our court's website, all law and motion matters in a Chapter 7 case, other than Reaffirmation hearings, will be conducted in person at court. Any party may request a Zoom appearance for good cause. Please contact the Courtroom Deputy for Dept. 1 at (619) 557-7407 to request a Zoom appearance in advance of the hearing.

ATTORNEY: OCTAVIO VELARDE (ANA LILIA ZEPEDA)

11:00 AM

1 - 21-02480-MM Ch 7 DIANE M ACUNA

VIDEO

REAFFIRMATION AGREEMENT BETWEEN DEBTOR AND 21ST MORTGAGE CORPORATION

Tentative Ruling: **Continued to October 28, 2021 at 10:00 a.m. in Dept. 1.** to be heard with Debtor's Motion to Avoid Judgment Lien. The amount to be reaffirmed is listed as \$7,403.41, but Debtor claims 21st Mortgage Corporation holds a first trust deed of \$113,307. The parties must be prepared to explain the amount of 21st Mortgage Corporation's claim and to what extent it is secured. The court also does not understand why Counsel certified the reaffirmation agreement given his client has no income listed in the schedules.

ATTORNEY: ANDREW H. GRIFFIN (DIANE M ACUNA)

2 - 21-02655-MM Ch 7 ROBERT J & CATHIE L TRAUTMAN

VIDEO

1) REAFFIRMATION AGREEMENT BETWEEN DEBTOR AND CALIFORNIA COAST CREDIT UNION

Tentative Ruling: As stated in our Chambers Guidelines posted on our court's website, all Reaffirmation calendars will be conducted via Zoom. An email will be sent to the parties with specific instructions. In person appearances will be excused unless otherwise stated in the tentative ruling.

2) REAFFIRMATION AGREEMENT BETWEEN DEBTOR AND FIRST TECH FEDERAL CREDIT UNION

Tentative Ruling: Off calendar. Debtors were represented by counsel in negotiating the reaffirmation agreement with a credit union who executed a certification in support of the reaffirmation agreement. The presumption of undue hardship is not applicable, and the reaffirmation agreement is effective without court approval. See 11 U.S.C. § 524(c) and (m)(2); *Bay Federal Credit Union v. Ong (In re Ong)*, 461 B.R. 559, 564 (B.A.P. 9th Cir. 2011).

ATTORNEY: SCOTT R. BURTON (ROBERT J TRAUTMAN, CATHIE L TRAUTMAN)

11:00 AM

3 - 21-02793-MM Ch 7 CHRISTOPHER WAYNE & TIFFANY JADE ECK

VIDEO

- 1) REAFFIRMATION AGREEMENT BETWEEN DEBTOR AND FORD MOTOR CREDIT COMPANY LLC

Tentative Ruling: Off calendar. Counsel executed the certification and there is no presumption of undue hardship. The agreement is effective without court approval.

- 2) REAFFIRMATION AGREEMENT BETWEEN DEBTOR AND LBS FINANCIAL CREDIT UNION

Tentative Ruling: Off calendar. Debtors were represented by counsel in negotiating the reaffirmation agreement with a credit union who executed a certification in support of the reaffirmation agreement. The presumption of undue hardship is not applicable, and the reaffirmation agreement is effective without court approval. See 11 U.S.C. § 524(c) and (m)(2); *Bay Federal Credit Union v. Ong (In re Ong)*, 461 B.R. 559, 564 (B.A.P. 9th Cir. 2011).

ATTORNEY: AHREN A. TILLER (CHRISTOPHER WAYNE ECK, TIFFANY JADE ECK)

ATTORNEY: GABRIEL HANNA (CHRISTOPHER WAYNE ECK, TIFFANY JADE ECK)

4 - 21-03083-MM Ch 7 DONALD WILLIAM FORTIER

VIDEO

REAFFIRMATION AGREEMENT BETWEEN DEBTOR AND CAPITAL ONE AUTO FINANCE, A DIVISION OF CAPITAL ONE, N.A.

Tentative Ruling: As stated in our Chambers Guidelines posted on our court's website, all Reaffirmation calendars will be conducted via Zoom. An email will be sent to the parties with specific instructions. In person appearances will be excused unless otherwise stated in the tentative ruling.

ATTORNEY: JOHN C. COLWELL (DONALD WILLIAM FORTIER)

ATTORNEY: DANIEL WIEDECKER (DONALD WILLIAM FORTIER)

5 - 21-03387-MM Ch 7 RICARDO & ROSELIA JUAREZ

VIDEO

- 1) REAFFIRMATION AGREEMENT BETWEEN DEBTOR AND SANTANDER CONSUMER USA INC.

Tentative Ruling: As stated in our Chambers Guidelines posted on our court's website, all Reaffirmation calendars will be conducted via Zoom. An email will be sent to the parties with specific instructions. In person appearances will be excused unless otherwise stated in the tentative ruling.

- 2) REAFFIRMATION AGREEMENT BETWEEN DEBTOR AND TOYOTA MOTOR CREDIT CORPORATION

Tentative Ruling: As stated in our Chambers Guidelines posted on our court's website, all Reaffirmation calendars will be conducted via Zoom. An email will be sent to the parties with specific instructions. In person appearances will be excused unless otherwise stated in the tentative ruling.

ATTORNEY: PEDRO S. BONILLA (RICARDO JUAREZ, ROSELIA JUAREZ)

11:00 AM

6 - 21-03487-MM Ch 7 CARLOS ESPINOZA & ELVIRA ESCOBAR

VIDEO

REAFFIRMATION AGREEMENT BETWEEN DEBTOR AND ALLY BANK

Tentative Ruling: As stated in our Chambers Guidelines posted on our court's website, all Reaffirmation calendars will be conducted via Zoom. An email will be sent to the parties with specific instructions. In person appearances will be excused unless otherwise stated in the tentative ruling.

ATTORNEY: PEDRO S. BONILLA (CARLOS ESPINOZA, ELVIRA ESCOBAR)

02:00 PM

1 - 20-05584-MM Ch 11 JET REAL ESTATE GROUP, LLC

ADV: 21-90030

JET REAL ESTATE GROUP, LLC v. MIKE HALL, TRUSTEE OF THE HALL FAMILY TR & DREW LOUIS & DEL TORO LOAN SERVICING, INC.

MOTION FOR PARTIAL SUMMARY ADJUDICATION FILED BY PLAINTIFF (fr 10/14/21)

Tentative Ruling: **Continued to October 29, 2021 at 10:00 a.m. in Dept. 1.** Appearances at the October 21, 2021 hearing are excused.

ATTORNEY: BENJAMIN CARSON (JET REAL ESTATE GROUP, LLC)

ATTORNEY: STEVEN W. BLAKE (MIKE HALL, TRUSTEE OF THE HALL FAMILY TR)