

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

Wednesday, December 07, 2016

Hearing Room 301

9:30 AM

**1:12-15880 Francis John Bailiff**

**Chapter 13**

**#1.00** Motion for relief from stay [RP]

WELLS FARGO BANK, N.A.  
VS  
DEBTOR

fr. 11/9/16

Docket 45

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Francis John Bailiff

Represented By  
Steven P Chang

**Movant(s):**

WELLS FARGO HOME

Represented By  
Donna R Harris  
LeeAnne D May  
Shainna Surles  
Robert P Zahradka

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
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**Wednesday, December 07, 2016**

**Hearing Room 301**

9:30 AM

**1:14-10334 Kurt Stromer**

**Chapter 13**

**#2.00** Motion for relief from stay [RP]

HSBC BANK USA, NATIONAL ASSOCIATION  
VS  
DEBTOR

fr. 11/9/16

Docket 45

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Kurt Stromer

Represented By  
David S Hagen

**Movant(s):**

HSBC Bank USA, National

Represented By  
Robert P Zahradka

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
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Wednesday, December 07, 2016

Hearing Room 301

9:30 AM

1:12-19119 Irina Torgan

Chapter 13

#2.10 Motion for relief from stay [RP]

U.S. BANK NATIONAL ASSOCIATION  
VS  
DEBTOR

fr. 10/26/16; 11/23/16

**Stipulation filed 12/5/16**

Docket 77

\*\*\* VACATED \*\*\* REASON: APO pending & to be entered shortly.

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Irina Torgan

Represented By  
Elena Steers

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court  
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Wednesday, December 07, 2016

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9:30 AM

1:16-12649 Andrew John Nehme

Chapter 7

#3.00 Motion for relief from stay [PP]

TOYOTA LEASE TRUST  
VS  
DEBTOR

Docket 15

**Tentative Ruling:**

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the property.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

**Party Information**

**Debtor(s):**

Andrew John Nehme

Represented By  
Donald E Iwuchuku

**Movant(s):**

Toyota Lease Trust

Represented By  
Erica T Loftis

**Trustee(s):**

Diane Weil (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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Wednesday, December 07, 2016

Hearing Room 301

9:30 AM

1:16-12780 Ritalanda Chea

Chapter 7

#4.00 Motion for relief from stay [PP]

BMW BANK OF NORTH AMERICA  
VS  
DEBTOR

Docket 12

**Tentative Ruling:**

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the property.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

<b>Party Information</b>
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**Debtor(s):**

Ritalanda Chea

Represented By  
Raj T Wadhvani

**Movant(s):**

BMW Bank of North America

Represented By  
Austin P Nagel

**Trustee(s):**

Nancy J Zamora (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
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Wednesday, December 07, 2016

Hearing Room 301

9:30 AM

1:16-10024 Paulette Vonetta Moses

Chapter 7

#5.00 Motion for relief from stay [RP]

DEUTSCHE BANK NATIONAL TRUST COMPANY  
VS  
DEBTOR

Docket 196

**Tentative Ruling:**

The Court will consider arguments at the hearing regarding the motion.

However, the Court will deny the debtor's requests for affirmative relief as stated in her opposition. Such relief is not available in proceedings on relief from stay. In *In re Cini*, Case No. 10-62715-11, 2012 WL 2374224 (Bankr. D. Mont. June 22, 2012), a debtor opposed a creditor's motion for relief from stay and asserted a counterclaim for violation of the automatic stay. The creditor filed a motion to strike the counterclaim, contending that the counterclaim should be filed and decided separately. *Id.* at \*5.

The bankruptcy court granted the creditor's motion to strike:

It is not this Court's job to draft parties' pleadings, or their docket entries. Rule 9013, F.R.B.P, provides in pertinent part: "A request for an order, except when an application is authorized by these rules, shall be by written motion . . .". Rule 9014(a) further provides that "[i]n a contested matter not otherwise governed by these rules, relief shall be requested by motion, and reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought." *See, e.g., Panzer v. Wells Fargo Bank of Minnesota, N.A., et al. (In re Panzer)*, 220 Fed. Appx. 658 (9th Cir. 2007) (unpublished decision) (citing *In re Wade*, 115 B.R. 222 (9th Cir. BAP 1990)). Debtor does not cite any rule which authorizes a counterclaim for violation of the automatic stay, and the Court is aware of none. The Court requires parties requesting affirmative relief to comply with Rules 9013 and 9014 and file a motion, unless another rule applies. Allowing the Debtor to depart from the motion requirement, as Debtor requests, would

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**CONT...**

**Paulette Vonetta Moses**

**Chapter 7**

undermine and invite departure from compliance with the rules by other practitioners.

*In re Cini*, 2012 WL 2374224, at \*9; *see also Johnson v. Righetti (In re Johnson)*, 756 F.2d 738, 740 (9th Cir. 1985) (“Stay litigation is limited to issues of the lack of adequate protection, the debtor’s equity in the property, and the necessity of the property to an effective reorganization. Hearings on relief from the automatic stay are thus handled in a summary fashion.”)

In light of the reasoning above, and in accordance with Federal Rules of Bankruptcy Procedure 9013 and 9014, the Court will deny all affirmative requests for relief in the debtor’s opposition.

<b>Party Information</b>
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**Debtor(s):**

Paulette Vonetta Moses

Pro Se

**Movant(s):**

Deutsche Bank National Trust

Represented By  
Kelly M Raftery  
Nancy L Lee

**Trustee(s):**

Amy L Goldman (TR)

Represented By  
Lovee D Sarenas  
Annie Verdries

**United States Bankruptcy Court  
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Wednesday, December 07, 2016

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**1:16-13040 Jaime Lazo**

**Chapter 7**

**#6.00** Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON  
VS  
DEBTOR

**Case dismissed 11/14/2016**

Docket 9

**Tentative Ruling:**

This case was dismissed on November 14, 2016. Grant relief from stay pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(4).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the property.

Movant, or its agents, may, at its option, offer, provide and enter into a potential forbearance agreement, loan modification, refinance agreement or other loan workout or loss mitigation agreement. Movant, through its servicing agent, may contact the Debtor by telephone or written correspondence to offer such an agreement. Any such agreement shall be nonrecourse unless stated in a reaffirmation agreement.

If recorded in compliance with applicable state laws governing notices of interests or liens in real property, the order is binding in any other case under this title purporting to affect the property filed not later than 2 years after the date of the entry of the order by the court, except that a debtor in a subsequent case under this title may move for relief from the order based upon changed circumstances or for good cause shown, after notice and hearing.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit order within seven (7) days.

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CONT... **Jaime Lazo**

**Chapter 7**

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

<b>Party Information</b>
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**Debtor(s):**

Jaime Lazo

Pro Se

**Movant(s):**

THE BANK OF NEW YORK

Represented By  
Leslie M Klott

**Trustee(s):**

Diane Weil (TR)

Pro Se

**United States Bankruptcy Court  
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1:16-10407 John M. Thomas

Chapter 13

#7.00 Motion for relief from stay [UD]

MARIA DAVILA  
VS  
DEBTOR

Docket 33

**Tentative Ruling:**

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to obtain possession of the property.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Any other request for relief is denied.

Movant must submit order within seven (7) days.

**Party Information**

**Debtor(s):**

John M. Thomas

Represented By  
James R Selth

**Movant(s):**

Maria Davila

Represented By  
Mark S Charrow

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court  
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Hearing Room 301

9:30 AM

1:16-13027 Maribel Sevilla Pineda

Chapter 13

#8.00 Motion for relief from stay [UD]

BANK OF NEW YORK MELLON  
VS  
DEBTOR

Docket 14

**Tentative Ruling:**

This case was dismissed on November 30, 2016. Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1). Deny request for relief under 11 U.S.C. § 362(d)(4). Section 362(d)(4) appears to be inapplicable. The movant is the owner of property, not a creditor whose claim is secured by an interest in the property, as specified in the statute.

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to obtain possession of the property.

The order is binding and effective in any bankruptcy case commenced by or against any debtor who claims any interest in the property for a period of 180 days from the hearing of this Motion upon recording of a copy of this order or giving appropriate notice of its entry in compliance with applicable nonbankruptcy law.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Any other request for relief is denied.

Movant must submit order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

**Party Information**

**United States Bankruptcy Court  
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**CONT... Maribel Sevilla Pineda**

**Chapter 13**

**Debtor(s):**

Maribel Sevilla Pineda Pro Se

**Movant(s):**

Bank of New York Mellon, f/k/a The Represented By  
Caren J Castle

**Trustee(s):**

Elizabeth (SV) F Rojas (TR) Pro Se

**United States Bankruptcy Court  
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9:30 AM

1:16-12806 Daniel Martinez

Chapter 13

#9.00 Motion for relief from stay [PP]

WELLS FARGO BANK, N.A.  
VS  
DEBTOR

Docket 19

**Tentative Ruling:**

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to repossess and sell the property.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

This order will be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the U.S. Code.

Movant must submit order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

**Party Information**

**Debtor(s):**

Daniel Martinez

Represented By  
Elena Steers

**Movant(s):**

Wells Fargo Bank, N.A. dba Wells

Represented By  
Sheryl K Ith

**United States Bankruptcy Court  
Central District of California  
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**CONT... Daniel Martinez**

**Chapter 13**

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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**1:16-12806 Daniel Martinez**

**Chapter 13**

**#10.00** Motion for relief from stay [RP]

THE BANK OF NEW YORK MELLON  
VS  
DEBTOR

Docket 17

**Tentative Ruling:**

Grant relief from stay pursuant to 11 U.S.C. § 362(d)(1). Deny request for relief under 11 U.S.C. § 362(d)(4). Movant has not made a prima facie case that the filing of the petition was part of a scheme to delay, hinder, or defraud creditors

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the property.

Movant, or its agents, may, at its option, offer, provide and enter into a potential forbearance agreement, loan modification, refinance agreement or other loan workout or loss mitigation agreement. Movant, through its servicing agent, may contact the debtor by telephone or written correspondence to offer such an agreement. Any such agreement shall be nonrecourse unless stated in a reaffirmation agreement.

The order is binding and effective in any bankruptcy case commenced by or against any debtor who claims an interest in the property for a period of 180 days from the hearing on the motion upon recording a copy of the order or giving appropriate notice of its entry in compliance with applicable nonbankruptcy law.

The co-debtor stay of 11 U.S.C. § 1301(a) is terminated, modified or annulled as to the co-debtor, as to the same terms and conditions as to the debtor.

Any other request for relief is denied.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

**United States Bankruptcy Court  
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**CONT... Daniel Martinez**

**Chapter 13**

Movant must submit order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

<b>Party Information</b>
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**Debtor(s):**

Daniel Martinez

Represented By  
Elena Steers

**Movant(s):**

The Bank of New York Mellon, f/k/a

Represented By  
Nancy L Lee

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

United States Bankruptcy Court  
Central District of California  
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Wednesday, December 07, 2016

Hearing Room 301

9:30 AM

1:11-20241 Belen Carol B Malayang

Chapter 13

#11.00 Motion for relief from stay [RP]

PLANET HOME LENDING, LLC  
VS  
DEBTOR

Docket 77

\*\*\* VACATED \*\*\* REASON: Withdrawal of motion filed 12/5/16

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Belen Carol B Malayang

Represented By  
Michelle Y Choe  
Michelle A Marchisotto

**Movant(s):**

Planet Home Lending, LLC

Represented By  
Erin M McCartney

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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Wednesday, December 07, 2016

Hearing Room 301

9:30 AM

1:14-12032 Anthony Antonello and Tamara Marie Antonello

Chapter 13

#12.00 Motion for relief from stay [RP]

WELLS FARGO BANK, N.A.

Docket 118

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Anthony Antonello

Represented By  
Kevin T Simon

**Joint Debtor(s):**

Tamara Marie Antonello

Represented By  
Kevin T Simon

**Movant(s):**

Wells Fargo Bank, N.A

Represented By  
Gagan G Vaideeswaran  
Robert P Zahradka  
Gilbert R Yabes

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
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Wednesday, December 07, 2016

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9:30 AM

1:15-12350 Socorro Gillera Cooke

Chapter 13

#13.00 Motion for relief from stay [RP]

CITIBANK, N.A.  
VS  
DEBTOR

Docket 39

\*\*\* VACATED \*\*\* REASON: Order entered 12/1/16 cont. matter to  
1/11/17 @ 9:30am.

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Socorro Gillera Cooke

Represented By  
Paul M Allen

**Movant(s):**

Citibank, N.A.

Represented By  
William F McDonald III  
Cheryl A Knapmeyer

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
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Wednesday, December 07, 2016

Hearing Room 301

9:30 AM

1:16-12533 Dejan Petrovic

Chapter 13

#14.00 Motion for relief from stay [RP]

HSBC BANK USA, NATIONAL ASSOCIATION  
VS  
DEBTOR

**Case dismissed 11/1/2016**

Docket 22

**Tentative Ruling:**

This case was dismissed on November 1, 2016. Grant relief from stay pursuant to 11 U.S.C. §§ 362(d)(1), for purposes of annulling the automatic stay, and (d)(4).

Movant (and any successors or assigns) may proceed under applicable nonbankruptcy law to enforce its remedies to foreclose upon and obtain possession of the property.

If recorded in compliance with applicable state laws governing notices of interests or liens in real property, the order is binding in any other case under this title purporting to affect the property filed not later than 2 years after the date of the entry of the order by the court, except that a debtor in a subsequent case under this title may move for relief from the order based upon changed circumstances or for good cause shown, after notice and hearing.

As concerns movant's request to annul the automatic stay, "many courts have focused on two factors in determining whether cause exists to grant [retroactive] relief from the stay: (1) whether the creditor was aware of the bankruptcy petition; and (2) whether the debtor engaged in unreasonable or inequitable conduct, or prejudice would result to the creditor." *In re National Environmental Waste Corp.*, 129 F.3d 1052, 1055 (9th Cir. 1997). "[T]his court, similar to others, balances the equities in order to determine whether retroactive annulment is justified." *Id.*

Additional factors courts consider when deciding whether to annul the stay include:

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CONT...

**Dejan Petrovic**

**Chapter 13**

1. Number of filings;
2. Whether, in a repeat filing case, the circumstances indicate an intention to delay and hinder creditors;
3. A weighing of the extent of prejudice to creditors or third parties if the stay relief is not made retroactive, including whether harm exists to a bona fide purchaser;
4. The debtor's overall good faith (totality of circumstances test): *cf. Fid. & Cas. Co. of N.Y. v. Warren (In re Warren)*, 89 B.R. 87, 93 (9th Cir. BAP 1988)(chapter 13 good faith);
5. Whether creditors knew of stay but nonetheless took action, thus compounding the problem;
6. Whether the debtor has complied, and is otherwise complying, with the Bankruptcy Code and Rules;
7. The relative ease of restoring parties to the *status quo ante*;
8. The costs of annulment to debtors and creditors;
9. How quickly creditors moved for annulment, or how quickly debtors moved to set aside the sale or violative conduct;
10. Whether, after learning of the bankruptcy, creditors proceeded to take steps in continued violation of the stay, or whether they moved expeditiously to gain relief;
11. Whether annulment of the stay will cause irreparable injury to the debtor;
12. Whether stay relief will promote judicial economy or other efficiencies.

*Fjeldsted v. Lien (In re Fjeldsted)*, 293 B.R. 12, 25 (9th Cir. B.A.P. 2003)

Here, movant was unaware of the debtor's bankruptcy petition prior to the foreclosure sale held on September 20, 2016. The debtor is not the original borrower on the deed of trust on the property located at 3521 Encinal Avenue, La Crescenta, California 91214 (the "Property"). In addition, the grant deed purporting to transfer an interest in the Property from William T. Martinsen to William T. Martinsen and the debtor, as joint tenants, was never recorded. Therefore, the unrecorded grant deed did not put movant on notice of the debtor's purported interest in the Property prior to the trustee's sale.

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CONT... Dejan Petrovic

Chapter 13

With respect to the debtor's conduct, the debtor failed to timely file a chapter 13 plan, schedules, or statements. As noted above, the debtor's case was dismissed on November 1, 2016, because the debtor did not appear at the § 341(a) meeting or make required pre-confirmation payments. Moreover, as movant alleges, since 2011 the Property has been the subject of at least two (2) unauthorized transfers by the original borrowers and seven (7) bankruptcy cases filed by the original borrowers and another individual, Matilde Leyva, who allegedly acquired an interest in the Property through an unauthorized grant deed.

Furthermore, the remaining *In re Fjeldsted* factors favor annulment of the stay. Upon learning of the debtor's bankruptcy filing, movant promptly filed a motion to annul the automatic stay to validate the trustee's sale. The debtor has taken no action to set aside the sale. If the stay is not annulled, both movant and the bona fide purchaser of the Property will be prejudiced. Because the trustee's sale is null and void as a matter of law, the movant will have to incur additional costs to conduct a new trustee's sale. The debtor will not be prejudiced, as the debtor does not appear to have a legitimate interest in the Property. For these reasons, the Court finds that annulment of the automatic stay is appropriate.

Any other request for relief is denied.

The 14-day stay prescribed by FRBP 4001(a)(3) is waived.

Movant must submit order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

**Party Information**

**Debtor(s):**

Dejan Petrovic

Pro Se

**Movant(s):**

HSBC Bank USA, National

Represented By  
Joseph C Delmotte

**United States Bankruptcy Court  
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**CONT... Dejan Petrovic**

**Chapter 13**

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
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**1:16-13171 Regla Vera**

**Chapter 13**

**#14.10** Motion for relief from stay [RP]

NUVISION FEDERAL CREDIT UNION  
VS  
DEBTOR

fr. 11/17/16; 11/16/16; 11/30/16 (MT)

Docket 10

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Regla Vera

Represented By  
Glenn Ward Calsada

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

**United States Bankruptcy Court  
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**1:16-13243 Seitha Faye Guevara**

**Chapter 13**

**#15.00** Motion in individual case for order imposing a stay or continuing the automatic stay

Docket 9

**Tentative Ruling:**

Grant.

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

<b>Party Information</b>
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**Debtor(s):**

Seitha Faye Guevara

Represented By  
Kevin T Simon

**Trustee(s):**

Elizabeth (SV) F Rojas (TR)

Pro Se

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**1:16-12097 N.E. Designs, Inc.**

**Chapter 11**

**#16.00** Motion for relief from stay [AN]

N.E. DESIGNS, INC.

Docket 97

**Tentative Ruling:**

Grant the requested relief from stay and annulment of the stay under 11 U.S.C. § 362 (d)(1).

Movant must submit the order within seven (7) days.

<b>Party Information</b>
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**Debtor(s):**

N.E. Designs, Inc.

Represented By  
Sandford Frey  
Stuart I Koenig

**Movant(s):**

N.E. Designs, Inc.

Represented By  
Sandford Frey  
Stuart I Koenig

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

Wednesday, December 07, 2016

Hearing Room 301

1:30 PM

1:11-23581 Thomas Henry Majcher

Chapter 7

Adv#: 1:16-01033 GOTTLIEB v. Fulwider Patton LLP

#17.00 Status conference re: complaint for (1) breach of contract,  
and (2) accounting

fr. 5/18/16; 6/1/16; 11/2/16;

Docket 1

**Tentative Ruling:**

In light of the *Pretrial Conference Statement re: Settlement* [doc. 15], the Court will continue this status conference to **1:30 p.m. on July 12, 2017**. If the parties have not filed a stipulation to dismiss this proceeding in accordance with their settlement agreement, the parties must file a joint status report no later than **June 28, 2017**.

Appearances are excused on December 7, 2016.

<b>Party Information</b>
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**Debtor(s):**

Thomas Henry Majcher Pro Se

**Defendant(s):**

Fulwider Patton LLP Pro Se

**Joint Debtor(s):**

Maria A. Majcher Pro Se

**Plaintiff(s):**

DAVID K. GOTTLIEB Represented By  
Steven Werth

**Trustee(s):**

David Keith Gottlieb (TR) Represented By  
Elizabeth Jiang

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

**Wednesday, December 07, 2016**

**Hearing Room 301**

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1:30 PM

**CONT... Thomas Henry Majcher**

**Chapter 7**

David Keith Gottlieb (TR)

Pro Se

**US Trustee(s):**

United States Trustee (SV)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

**Wednesday, December 07, 2016**

**Hearing Room 301**

1:30 PM

**1:16-10224 Thomas Joel Gajewski**

**Chapter 7**

Adv#: 1:16-01132 Gajewski v. ACS/ Access Group et al

**#18.00** Status conference re: complaint to determine debt to be dischargeable pursuant to 11 U.S.C. section 523(a)(80)

Docket 1

**Tentative Ruling:**

Parties should be prepared to discuss the following:

Deadline to complete discovery: 5/1/17.

Deadline to file pretrial motions: 5/31/17.

Deadline to complete and submit pretrial stipulation in accordance with Local Bankruptcy Rule 7016-1: 6/7/17.

Pretrial: 1:30 p.m. on 6/21/17.

In accordance with Local Bankruptcy Rule 7016-1(a)(4), within seven (7) days after this status conference, the plaintiff must submit a Scheduling Order.

If any of these deadlines are not satisfied, the Court will consider imposing sanctions against the party at fault pursuant to Local Bankruptcy Rule 7016-1(f) and (g).

**Party Information**

**Debtor(s):**

Thomas Joel Gajewski

Represented By  
Giovanni Orantes

**Defendant(s):**

U.S. Department of Education

Represented By  
Elan S Levey

Navient Solutions, Inc.

Represented By  
Robert S Lampl

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

**Wednesday, December 07, 2016**

**Hearing Room 301**

1:30 PM

**CONT... Thomas Joel Gajewski**

**Chapter 7**

ACS/ Access Group

Represented By  
Scott S Weltman

Department of Education/ Navient

Pro Se

**Plaintiff(s):**

Thomas Joel Gajewski

Represented By  
Giovanni Orantes

**Trustee(s):**

Amy L Goldman (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

Wednesday, December 07, 2016

Hearing Room 301

2:30 PM

**1:15-11004 Chad Eric Yeaman**

**Chapter 7**

Adv#: 1:15-01101 Herman v. Yeaman et al

**#19.00** Plaintiff's Motion to compel completion of deposition of Chad Eric Yeaman and for sanctions against Chad Eric Yeaman

Docket 84

**Tentative Ruling:**

The Court will order defendant Chad Eric Yeaman to complete his deposition. The parties should be prepared to discuss a date, time and location for the continued deposition, as well as whether the Court should order that a Court-appointed witness attend the deposition. At the continued deposition, should the parties have additional disputes, the parties are instructed to call chambers.

Because both parties engaged in sanctionable conduct, the Court will not sanction either party at this time. Contrary to Federal Rules of Civil Procedure 26(c) and 30(d)(3), Mr. Yeaman terminated his deposition but did not file a motion for a protective order.

On the other hand, the plaintiff's questions about Mr. Yeaman's alleged sexual relationships were irrelevant and conducted "in a manner that unreasonably annoys, embarrasses, or oppresses the deponent." Fed. R. Civ. P. 30(d)(3)(A). "Clearly, inquiry into irrelevant topics can constitute bad faith, or unreasonable annoyance, embarrassment or oppression, as described in Rule 30(d)(3). For example, asking a deponent questions about personal or confidential matters, such as his or her medical history, sex life or financial condition, would quickly qualify if such matters had no possible relevance to the case." *Van Stelton v. Van Stelton*, 2013 WL 5574566, at \*17 (N.D. Iowa Oct. 9, 2013); *see also Youngblood v. City of Paducah*, 2011 WL 6749024, at \*2 (W.D. Ky. Dec. 22, 2011) ("[W]here counsel's questions go 'beyond the realm of possible relevance,' they may be construed as abusive and refusal to answer is warranted. This latter issue of relevancy offers a basis for relief, as queries so disconnected from the matter at hand are only offered to annoy, embarrass, or oppress a deponent.") (quoting *Rangel v. Gonzalez Mascorro*, 274 F.R.D. 585, 590-91 (S.D. Tex. 2011)); *and Condor v. W. Bountiful City*, 2008 WL 4200605, at \*3 (D. Utah Sept. 9, 2008) ("[N]o question shall be asked that does not have a legitimate

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

Wednesday, December 07, 2016

Hearing Room 301

2:30 PM

CONT...

**Chad Eric Yeaman**

**Chapter 7**

good faith basis. Rumor and innuendo do not provide such a basis."). As a result of the parties' conduct in violation of the Rules, the Court declines to sanction either party at this time.

Although the Court will order Mr. Yeaman to attend a continued deposition, the Court may prohibit the plaintiff from attending the deposition based on the plaintiff's alleged conduct at the last deposition. Pursuant to Federal Rule of Civil Procedure 26(c)(1) (E), the Court may issue an order "designating the persons who may be present while the discovery is conducted." *See also Galella v. Onassis*, 487 F.2d 986, 997 (2d Cir. 1973) (holding that a court has the power to exclude a party from a deposition and that "[t]he grant and nature of protection is singularly within the discretion of the district court"); and *U.S. E.E.O.C. v. ABM Indus. Inc.*, 2008 WL 2872407, at \*2 (E.D. Cal. July 24, 2008) ("The court may, in its discretion and upon a showing of good cause, issue a protective order directing certain parties or individuals from attending a deposition if their presence would unduly embarrass or oppress the deponent.").

<b>Party Information</b>
--------------------------

**Debtor(s):**

Chad Eric Yeaman

Represented By  
Rob R Nichols

**Defendant(s):**

Cynthia Theresa Sagun Viray

Pro Se

Chad Eric Yeaman

Pro Se

**Joint Debtor(s):**

Cynthia Theresa Sagun Viray

Represented By  
Rob R Nichols

**Plaintiff(s):**

David Richard Herman

Represented By  
Stanley D Bowman

**Trustee(s):**

Diane Weil (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

**Wednesday, December 07, 2016**

**Hearing Room 301**

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**CONT...**

**Chad Eric Yeaman**

**Chapter 7**

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

Wednesday, December 07, 2016

Hearing Room 301

2:30 PM

**1:15-11004 Chad Eric Yeaman**

**Chapter 7**

Adv#: 1:15-01101 Herman v. Yeaman et al

**#20.00** Pretrial conference re : complaint objecting to discharge pursuant to 11 U.S.C. sec 727(a)(4)(A); 11 U.S.C. sec 523(a)(2)(A) and 11 U.S.C. sec 523(a)(6)

fr. 9/2/15; 3/9/16; 5/11/16; 6/1/16; 8/24/16; 11/09/16

Docket 1

**Tentative Ruling:**

- NONE LISTED -

**Party Information**

**Debtor(s):**

Chad Eric Yeaman

Represented By  
Rob R Nichols

**Defendant(s):**

Cynthia Theresa Sagun Viray

Pro Se

Chad Eric Yeaman

Pro Se

**Joint Debtor(s):**

Cynthia Theresa Sagun Viray

Represented By  
Rob R Nichols

**Plaintiff(s):**

David Richard Herman

Represented By  
Stanley D Bowman

**Trustee(s):**

Diane Weil (TR)

Pro Se

Diane Weil (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

**Wednesday, December 07, 2016**

**Hearing Room 301**

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2:30 PM

**CONT... Chad Eric Yeaman**

**Chapter 7**

**US Trustee(s):**

United States Trustee (SV)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

Wednesday, December 07, 2016

Hearing Room 301

2:30 PM

**1:16-11150 Laura Kay James**

**Chapter 7**

Adv#: 1:16-01097 Kirakosian v. James et al

**#21.00** Motion to dismiss adversary proceeding for lack of substantive evidence and failure to reach the burden of proof as outlined in the creditors claim

Docket 17

**\*\*\* VACATED \*\*\* REASON: Voluntary dismissal of motion filed 11/3/16**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
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**Debtor(s):**

Laura Kay James	Pro Se
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**Defendant(s):**

Jake Guillermo James	Pro Se
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Laura Kay James	Pro Se
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**Joint Debtor(s):**

Jake Guillermo James	Pro Se
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**Plaintiff(s):**

Viktoria Kirakosian	Represented By Scott D Olsen
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**Trustee(s):**

Nancy J Zamora (TR)	Pro Se
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**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

Wednesday, December 07, 2016

Hearing Room 301

2:30 PM

**1:16-11150 Laura Kay James**

**Chapter 7**

Adv#: 1:16-01104 James et al v. Navient Solutions, Inc. et al

**#22.00** Motion to permit Educational Credit Management Corporation to intervene as a defendant in the adversary proceeding

Docket 13

**Tentative Ruling:**

Grant.

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

<b>Party Information</b>
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**Debtor(s):**

Laura Kay James	Pro Se
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**Defendant(s):**

SLC Student Loan Trust	Pro Se
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Educational Credit Management	Represented By Scott A Schiff
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Navient Solutions, Inc.	Represented By Robert S Lampl
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NY State Higher Ed	Pro Se
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**Joint Debtor(s):**

Jake Guillermo James	Pro Se
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**Plaintiff(s):**

Laura Kay James	Pro Se
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**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
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**Wednesday, December 07, 2016**

**Hearing Room 301**

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**CONT... Laura Kay James**

**Chapter 7**

Jake Guillermo James

Pro Se

**Trustee(s):**

Nancy J Zamora (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

Wednesday, December 07, 2016

Hearing Room 301

2:30 PM

**1:16-11150 Laura Kay James**

**Chapter 7**

Adv#: 1:16-01104 James et al v. Navient Solutions, Inc. et al

**#23.00** Motion to permit Educational Credit Management Corporation to substitute in as real party in interest for New York State Higher Education Services Corporation Named as NY State Higher Ed

Docket 14

**Tentative Ruling:**

Grant.

Movant must submit the order within seven (7) days.

Note: No response has been filed. Accordingly, no court appearance by movant is required. Should an opposing party file a late opposition or appear at the hearing, the Court will determine whether further hearing is required and movant will be so notified.

<b>Party Information</b>
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**Debtor(s):**

Laura Kay James	Pro Se
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**Defendant(s):**

SLC Student Loan Trust	Pro Se
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Educational Credit Management	Represented By Scott A Schiff
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Navient Solutions, Inc.	Represented By Robert S Lampl
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NY State Higher Ed	Pro Se
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**Joint Debtor(s):**

Jake Guillermo James	Pro Se
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**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

**Wednesday, December 07, 2016**

**Hearing Room 301**

2:30 PM

**CONT... Laura Kay James**

**Chapter 7**

**Plaintiff(s):**

Laura Kay James Pro Se

Jake Guillermo James Pro Se

**Trustee(s):**

Nancy J Zamora (TR) Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

**Wednesday, December 07, 2016**

**Hearing Room 301**

2:30 PM

**1:16-11150 Laura Kay James**

**Chapter 7**

Adv#: 1:16-01104 James et al v. Navient Solutions, Inc. et al

**#24.00** Status conference re: complaint to determine dischargeability of student loan(s)

fr. 9/21/16; 10/5/16; 11/16/16

Docket 1

**Tentative Ruling:**

If the Court grants Educational Credit Management Corporation's motions to intervene and to substitute as the real party in interest [docs. 13, 14], the parties must meet and confer in accordance with Local Bankruptcy Rule 7026-1.

Parties should be prepared to discuss the following:

Deadline to comply with FRBP 7026 and FRCP 26(a)(1), (f) and (g): 12/21/16.

Deadline to submit joint status report: 1/9/17.

Continued status conference 1/18/17 at 1:30 p.m.

The Court will prepare a scheduling order.

If any of these deadlines are not satisfied, the Court will consider imposing sanctions against the party at fault pursuant to Local Bankruptcy Rule 7016-1(f) and (g).

**Party Information**

**Debtor(s):**

Laura Kay James Pro Se

**Defendant(s):**

SLC Student Loan Trust Pro Se

NY State Higher Ed Pro Se

**United States Bankruptcy Court  
Central District of California  
San Fernando Valley  
Judge Victoria Kaufman, Presiding  
Courtroom 301 Calendar**

Wednesday, December 07, 2016

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CONT... **Laura Kay James**  
Navient Solutions, Inc.

Pro Se

Chapter 7

**Joint Debtor(s):**

Jake Guillermo James

Pro Se

**Plaintiff(s):**

Laura Kay James

Pro Se

Jake Guillermo James

Pro Se

**Trustee(s):**

Nancy J Zamora (TR)

Pro Se